"THE MOST INTERESTING MAN IN AMERICA": FOLK LOGIC AND FIRST PRINCIPLES IN THE EARLY CAREER OF JUDGE KENESAW MOUNTAIN LANDIS

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Abstract of Dissertation Presented to the Graduate School
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This biographical study examines the early career of one of the most fascinating personalities of the early twentieth century. Landis is perhaps best known for having served as the first commissioner of baseball, but during the earlier, more intriguing part of his life, he earned a high degree of popularity and notoriety as a federal district court judge in Chicago. This study encompasses the years 1866 to 1910, but focuses particularly on Landis's rise to power as a federal judge and the Standard Oil case of 1907, in which he dragged the mighty John D. Rockefeller into court and slapped him with a record, twenty-nine-million-dollar fine. This dissertation looks at that case and its outcome after first exploring the background that brought Landis to that much-publicized event.

This is the story of an individual, but set within the context of a culture assaulted by the disturbing changes of rapid industrialization. Landis responded to those changes by retreating to the comfort of traditional values and ideals previously shared by most Americans in an earlier, rural society. In doing so, he won the admiration of countless other Americans who lamented the loss of those values and cheered Landis's efforts to resist change.

The life of Landis, and the controversy surrounding the Standard case, is thus used to explore the *mentalité* of Americans in the first years of this century in regard to what they expected from the legal system and what they looked for in popular heroes. In the process, this dissertation probes such issues as popular culture, the relationship between law and society, and the political nature of the legal system.

INTRODUCTION

On August 3, 1907, United States District Court Judge Kenesaw Mountain Landis peered menacingly down from his bench and ordered the Standard Oil Company to "forfeit and pay to the United States of America a fine . . . amounting in the aggregate to the sum of Twenty-nine million two hundred and forty thousand dollars." This fine, unprecedented in legal history, screamed from headlines around the country, stirred the popular imagination, and made Landis's name a household word. In the minds of many Americans, the trusts--which in popular parlance meant any large, consolidated business concern--had come to symbolize everything that was wrong with the country. By striking out in such a bold manner against this hated enemy, Landis emerged as a national hero surpassed in stature only by President Theodore Roosevelt. His very name conjured up images of prominence, forthrightness, and rock-solid stability. One journalist called him, "The Most Interesting Man in America," while another wrote, "And out of it all comes Judge Landis, the fearless judge, the incorruptible man encircled by a halo."[1]

Landis did not enjoy universal approval, however. Many of his critics believed that he frequently "played to the galleries," more concerned with his admiring public than the appropriateness of his decisions. To others, he was "America's Erratic Judge," difficult to peg, with his judicial opinions seeming to swing from one end of the political spectrum to the other. Selected as the first commissioner of baseball in 1920 in the wake

of the Black Sox scandal, he was labeled the "savior" of the game for his prompt and straightforward actions in removing any taint of gambling from the sport. To fans of Joe Jackson and Buck Weaver, however, two players banned for life by the autocratic commissioner, "The name Kenesaw Mountain Landis became synonymous with the Devil."[2]

Landis repeatedly inspired these sorts of strong and conflicting reactions during a public career which spanned a half-century, from 1893 until his death in 1944. Today, he is best remembered for his position as baseball commissioner, and most studies of him have focused on that last portion of his life. Between 1921 and 1944, a generation of Americans came to know him as the iron-willed dictator who ruled the baseball world as if it were his own personal domain. By 1921, however, his personality, his fame, and his mode of operation were already well established. At the time of his appointment as commissioner, he was fifty-four years old with the most interesting years of his life behind him. He had already worked for the secretary of state and the attorney general of the United States, become a prominent Chicago attorney, and served as a federal judge for sixteen years. It was as a judge that he gained fame and notoriety while handing down controversial decisions on some of the most significant issues of the day. In particular, the Standard Oil case of 1907, in which he dragged the mighty John D. Rockefeller into court and slapped him with a record fine, stands out as the most publicized event of his early career.

This study will focus on that case and its outcome, after first exploring the background which brought Landis to that pivotal moment. This is the story of an

individual, but set within the context of a rapidly changing culture. From the end of the Civil War through the first decade of the twentieth century, the United States struggled to define itself as a nation in the face of complex and disturbing changes brought on by industrialization. Landis responded to those changes by retreating into the comfort of the traditional values and ideals shared by most Americans in an earlier, rural society. In doing so, he won the praise of countless other Americans who lamented the loss of those values and cheered Landis's efforts to resist change. In light of his remarkable popularity, then, the life of Landis from 1866 to 1910 tells us a great deal about the attitudes of millions of other people toward those traumatic changes.

In many ways, the early life of Landis paralleled that of many other Americans of the generation which reached maturity around the turn of the century. Born in 1866, he grew up in a small, agrarian-based town in the Middle West and learned the lessons that governed the rest of his life. By the time he left home for good in 1889, he firmly believed in a set of universal and immutable "first principles" upon which he would judge all persons and base all future decisions. These principles encompassed Christian morality, natural law, the ideals upon which the United States had been formed, and a fair share of the pioneer attitudes that persisted in an area only a generation removed from the frontier. As a boy he developed faith in his country and its democratic institutions, optimism toward mankind, and a boundless confidence in his ability to achieve success. These fundamental precepts were further reinforced by a strong admiration for Abraham Lincoln. In Lincoln's life, Landis saw the importance of compassion, integrity, duty, and

a sense of humor, choosing to emulate as well the great man's driving ambition and individuality.[3]

The folk logic of the nineteenth-century Middle West formed the other keystone of Landis's personality. The polyglot culture of the great interior of America was created by the dozens of distinct groups of people who settled there. With all of their differences, these disparate people shared a way of interpreting their world and solving its problems. This process of folk logic reduced all things, regardless of complexity, to a simple, human equation which could be easily understood. Syllogistic reasoning of this sort, according to one historian, helped create "a prevailing view of reality . . . a private world that one can enter only through emotion or intuition . . . a rational universe ultimately reducible to . . . one magic formula exalted to an absolute." People of the region reacted strongly, moreover, when this set of absolutes, this vision of reality, became challenged, disrupted, or distorted.[4]

Landis internalized this way of thinking and carried it with him to the bench. In deciding cases, he automatically reverted to this process, using analogies, comparisons, and reductions to get at the core issues before finally making value judgments based more on intuition and his interpretation of first principles than on the precedents of common law. His popularity stemmed from the fact that millions of others reasoned in this same manner and thereby understood Landis when he explained legal issues in those terms. Landis, like Lincoln before him, recognized that common people lived their lives according to a set of inherited beliefs and instinctive emotions, and to him, it was always *people* that mattered most, before ideas, property, or progress. If, to some, his behavior

on the bench seemed erratic or irrational, many others believed that Landis was one of the few judges in the country who understood their way of viewing the world.[5]

At age fourteen, with these fundamental beliefs and values firmly rooted, Landis set out to conquer the world. He quit school in 1881 and tackled a variety of jobs before finding direction and settling on a career choice. Like many ambitious country boys, he thought that the practice of law would provide a path to wealth, prestige, and, perhaps, to political office. The study of that discipline led him first to Cincinnati and then to Chicago, where he attended a first-rate law school and formed a warm friendship with Walter Quintin Gresham. Gresham, a national political figure and United States Circuit Court Judge, became a mentor and an important role model for Landis. In 1893, when named to President Grover Cleveland's cabinet as secretary of state, Gresham took the young lawyer with him to Washington to serve as private secretary. For two years, Landis operated within the innermost circles of national power, gaining invaluable experience and numerous contacts that would help his future career. When Gresham died in 1895, Landis returned to Chicago intent on establishing a lucrative law practice.

Landis did not seek wealth alone, however. He also wanted authority. Later in life, he told an interviewer, "When I was a youngster I had an ambition to become the head of something. I mean the man who was responsible to nothing except his own conscience." This objective guided his life from the time he was fourteen, driving him from one career to another until he decided that only one position would satisfy him: an appointment as judge of the federal district court in Chicago. Throughout the 1890s and the early years of the new century, Landis worked tirelessly toward that goal. Along the

way, he served the U.S. Attorney General as a special-assistant prosecutor investigating the "beef trust," struggled to establish himself as a successful lawyer, and built up impressive political contacts both locally and nationally. Finally, in 1905, his hard work paid off, as Theodore Roosevelt appointed him to the federal court.[6]

Sitting on the bench, Landis saw himself as a benevolent paternalist, wielding absolute power but supplementing justice with kindness, understanding, and an occasional stern lecture. He believed that he was perfectly suited to the job as he understood people and instinctively knew when they were telling the truth. In addition, he spoke with a folksy directness that drew on the logic and metaphors of his youth and simplified the most complicated issues to a comprehensible level. In law school and in his legal practice, Landis had learned the importance of codified laws and constitutions. He never saw that system, however, as better than, or even as fair as, the instinctive sense of justice with which he and millions of others had grown up. Principle was still more important than statute in his mind. Legislative laws were controlled by the few, the wealthy, the greedy men from "the East" who owned first railroads, and then corporations. Common people saw Landis as their last line of defense against the irresistible force of corporate power. They loved him even when his decisions were overturned by higher courts, as was the fine he levied on Standard Oil. In fact, reversals merely reinforced the idea that the needs of the people were no longer being served by the American legal system and that Judge Landis, alone, still tried to administer true justice.

Furthermore, Landis relished this role and cultivated the image as defender of the common man. Self-confident to the point of arrogance, he never doubted his instincts or

second-guessed his decisions. Nor was he ever intimidated by those of a higher social or economic standing than himself. He expected success, was impatient for it, and was only surprised when it took others longer than he deemed necessary to recognize his abilities. Fame, then, did not just come to him; he made it happen. He aggressively sought the spotlight and shared it with others only reluctantly. A former newspaperman, he knew how to foster good relations with the press, using the media more effectively than almost any other personality of his day.

Despite the strong support of the press and the public, though, Landis was fighting a losing battle. His first principles, his folk logic, and his style of judging were fading remnants of the nineteenth century, rapidly losing validity in a modern, consumer-oriented nation. Before the Civil War, a large majority of Americans had shared Landis's view of the world. The changes wrought by industrialization, however, eroded that consensus and ushered in a new set of values more urban, secular, and materialistic in nature. Even his thought process, the logic that he employed to make sense of the world, became increasingly obsolete as intellectuals rejected the idea of immutable truths and the universal application of general rules. While some quickly embraced these new ideas, millions of others, including Landis, clung to the ways of the past, finding security in the time-worn and the familiar. A living anachronism on the bench, Landis serves as a reminder that many Americans retained agrarian, nineteenth-century values and intellectual patterns long after 1900.[7]

Notes

1. Pronouncement of fine, 3 August 1907, Criminal Case #3717, sub-group 17-85, Record Group 21, United States District Court Records, Northern District of Illinois--Eastern Division, National Archives, Great Lakes Region ("NARA-GL"); William Fleming French, "Kenesaw Mountain Landis: The Most Interesting Man in America," *Illustrated World*, 37 (March 1922) : 34-36, 132-34; *Labor Times-Herald* (Ft. Wayne, Ind.) 24 July 1908 ("out of it all").

2. Henry F. Pringle, "Portrait of a Bench Warmer," *Harper's Monthly Magazine*, 154 (April 1927) : 616; Harvey Brougham, "America's Erratic Judge," *Overland Monthly*, 77 (April 1921) : 9; Fred Lieb, *Baseball As I Have Known It* (New York: Coward, McCann, & Geoghegan, Inc., 1977), 115; fictional character Ray Kinsella, in W.P. Kinsella, *Shoeless Joe* (New York: Ballentine Books, 1982), 7. Kinsella's book later served as the basis for the motion picture, *Field of Dreams*.

3. *Quincy (Ill.) Daily Herald*, 4 September 1907; Ray Ginger, *Altgeld's America: The Lincoln Ideal Versus Changing Realities* (New York: Harper and Row, 1958; Reprint, New York: Markus Wiener, 1986), 1-5.

4. Frank R. Kramer, *Voices in the Valley: Mythmaking and Folk Belief in the Shaping of the Middle West* (Madison: University of Wisconsin Press, 1964), xiv-xvi.

5. Kramer, *Voices in the Valley*, 82-86.

6. KML to Ben Ezra Kendall, *Chicago Tribune*, 20 November 1916.

7. Ginger, *Altgeld's America*, 1-14.

CHAPTER 1
LITTLE KENNIE

Kenesaw Mountain Landis was a product of his environment. He, like so many other Americans of the post-Civil War era, first learned about life in a small, agriculturally based town in which the attitudes of the frontier persisted long after the area had been settled. His attitudes were shaped his parents, his church, his school, and his environment, but also by his culture--a rich culture of the great interior of the Middle West. Descended from Pennsylvania Germans, he grew up among people who saw the world in terms of simple proverbs and analogies that reduced even the most complex issues to basic principles. As a boy he learned to work hard, tell the truth, love his country, and to depend on himself above all others. He also learned to follow the golden rule, treating others as equally and fairly as he would have them treat him. This was not a difficult precept to adhere to, as, in his homogenous agrarian community, nearly everyone he knew looked alike, talked alike, and shared the same interests and concerns.

In many ways, this was a simple world which drew clear connections between cause and effect, plain distinctions between right and wrong. Landis came away from his childhood with a set of values which were deeply ingrained and shaped by these circumstances. Millions of other Americans, growing up at the same time and in similar towns, carried these same values into the twentieth century.

On June 27, 1864, a battle raged along an eight-mile front centering on Kennesaw Mountain, a short distance northwest of Atlanta, Georgia. For the first time in his relentless drive toward that crucial Confederate city, General William T. Sherman had lost patience with his usual flanking tactics and had attempted to force the issue by breaking through rebel lines entrenched on the rugged, seven-hundred-foot high mountain, resulting in some of the bloodiest fighting of the campaign which culminated in the famous "March to the Sea." At the foothills of the rocky ridge, closer to the front lines than was probably prudent, a surgeon with the 35th Ohio Volunteer Infantry hurried among the wounded men of his outfit, administering first aid and performing crude, battlefield operations. At the height of the battle, amid the roaring cannon, the gunpowder smoke, and the whistling bullets, Dr. Abraham H. Landis attempted to amputate a limb from a wounded Union soldier. Suddenly, a twelve-pound projectile--invariably described as a "spent" cannon ball--bounced off a nearby tree and shattered his left leg, crushing both bones below the knee. After a lengthy convalescence, Dr. Landis recovered, but he limped painfully for the rest of his life.[1]

Abraham had served for three years in the Union army, taken part in many major battles from Shiloh to Chickamauga, and spent several months as a prisoner of war at Libby Prison in Virginia. That one day before Kennesaw Mountain, however, stood out as the most traumatic moment in his life. Two years later, when his wife bore him a son, Abraham decided that the child should be named for the mountain which had played such an important role in his life. Cooler heads in the family argued against such an unusual sobriquet, and a lengthy debate ensued which involved relatives as well as the immediate

family. For several weeks, the boy existed without any name. Finally, the will of his stubborn father prevailed and he was christened Kenesaw Mountain Landis.[2]

This branch of the Landis family originated in the Rhine Valley of Europe, between Germany and Switzerland. In 1749, Abraham's grandfather, Frederick Landis, then ten years old, migrated to America with his ten older brothers. As members of an unwanted Protestant religious sect, the Mennonites, the family sought refuge from the persecution of European authorities in the more tolerant atmosphere of the New World. The Landis boys planned to join the growing number of Mennonites and other German sectarians who had settled in southeast Pennsylvania beginning in the late seventeenth century. One of the brothers died during the crossing, but the others carved a thriving agricultural community, Landisville, out of the wilderness near Lancaster, Pennsylvania.[3]

The ten brothers contributed to a unique culture which eventually became known as Pennsylvania German or Pennsylvania Dutch. Mennonites and members of a closely related sect, the Amish, dominated the region throughout the eighteenth century. After two centuries of religious persecution, these settlers possessed an inherent spirit of independence and conservatism and they closely protected themselves from outside intervention. Regarded as hard-working, thrifty farmers, the Pennsylvania Germans brought with them a mass of folklore, proverbs, and superstitions which helped them to understand every aspect of life and every new situation which might arise. They adapted these metaphors, analogies, and pithy phrases to the New World environment, seeing them as embodiments of universal truths which helped explain their world and reduce complex or abstract issues to ones which were familiar and easily grasped. Many of these proverbs

dealt specifically with the weather or other aspects of farm life but were generic enough as to allow application to other situations. The world view created by these simple homilies lasted for generations and guided the lives of countless pioneers as they left the East to settle the Western frontier.[4]

Frederick Landis retained this culture even while rejecting the rigid religious controls insisted upon by his community. He soon escaped to Bucks County, Pennsylvania, north of Philadelphia, where he married Elizabeth Hoch and had six sons, including Abraham's father, Philip. As did many other Pennsylvania Germans of the early nineteenth century, Philip moved west in search of cheap, fertile land close to the frontier. He followed the turnpike west to Pittsburgh, obtained river passage on the Ohio, and finally settled in Butler County, Ohio, just north of Cincinnati. There, he and Catherine Beary raised the six sons who survived infancy. The youngest of these, Abraham Hoch Landis, was born in their crude farmhouse near Trenton, Ohio on February 14, 1821.[5]

Abraham received an education that was fairly typical of a Western farming family of that period. He first attended a log schoolhouse for the rudiments and then a seminary, or secondary school, at nearby Miltonville. In these schools, instructors and textbooks reinforced the powerful religious, moral, and patriotic values that young Landis had been taught at home. Moreover, the material was often presented in the form of brief phrases, similar to the proverbs of the Pennsylvania Germans, that the students memorized by rote. In the 1830s, the books, or "readers," that were used in these schools began to be published in Cincinnati, rather than the East, and they increasingly stressed Western sectional ideas and ideals. Often, these readers merged regional pride with national feeling

and patriotism. Thus, Abraham and other children of the Middle West began to develop early on a sense of belonging to a separate region which possessed a distinctive culture shaped in part by its proximity to the frontier.[6]

After the seminary, Abraham faced a dilemma which confronted many sons of American farmers. With his father's land being parcelled out among six brothers, he would receive a share insufficient in size to generate much income. He had to therefore choose a professional career which promised a brighter future. He studied medicine with a local doctor in Hamilton, Ohio before moving on to a more formal program in a Cleveland medical school. In 1849, Abraham graduated from Ohio Medical College, in Cincinnati and opened a small, country practice in Millville, near Hamilton. His profession brought him into contact with Dr. Daniel C. Kumler, one of the most prominent men of Butler County. Within a year, Abraham fell in love with Dr. Kumler's daughter, Mary, and asked permission to marry her.[7]

Mary's mother, Catherine Walter, was born in Virginia in 1807. Daniel Kumler, also born in 1807, came from the same Pennsylvania-German culture as did the Landises. He migrated from Lancaster, Pennsylvania to Butler County at an early age and began practicing medicine in Millville in 1829. Two years earlier, he and Catherine had married, and together they raised ten children, nine of whom survived. Dr. Kumler built up a sizable practice and purchased large amounts of land, which were worked by his children and later distributed among them. A strongly religious man, Kumler served as a minister in the United Brethren Church for a time, even travelling to Africa as a missionary in 1854 before ill health forced an early return. Despite this bout with

sickness, longevity ran in his family, and he lived until 1881. He and Catherine brought Mary into the world on August 27, 1832.[8]

On September 17, 1850, Mary and Abraham married, with her uncle, Reverend H. Kumler, performing the ceremony. Dr. Landis was nearly thirty, ten years older than his wife, when they began their life together near Millville. In keeping with their family heritage of fertility, five children appeared in the next ten years: Katherine Jeannette in 1851, Sarah Francis Q. in 1853, Walter Kumler in 1856, Charles Beary in 1858, and John Howard in 1860. Mary worked hard feeding and caring for her steadily increasing brood in an area which was still in the early stages of settlement. She baked bread daily, made all meals from scratch, and hung endless lines of laundry in the yard. As a country doctor, Abraham treated minor illnesses, set bones, pulled teeth, and delivered babies, relying more on his hands and his senses than the simple set of instruments which he carried. Since Abraham was not regularly paid cash for his medical services, he also hunted and maintained a small farm to provide the necessities of life. As soon as they were old enough, the children helped with chores around the house, the barn, and the fields, and their parents taught them the many skills connected with operating what was primarily a self-sufficient farm.[9]

Just a few months after John's birth, however, the guns at Fort Sumter shattered this peaceful setting and left an indelible mark on the family. Early in the war, Abraham enlisted as an assistant surgeon in the Ohio Volunteer Infantry. He participated in the battles of Shiloh, Hoover's Gap, Tullahoma, Chickamauga, Rocky Face, Tunnel Hill, Resaca, and Pine Mountain before being wounded at Kennesaw Mountain. If he became

hardened by these experiences, he still maintained his compassion. On one battlefield, he found four dead soldiers, buried them, and jotted down their names. Upon returning home, he located the relatives of the dead men by advertising in a Cincinnati newspaper, thus enabling the bodies to be reburied by their families. One of the dead men came from Logansport, Indiana. When Abraham later moved to that community, he often visited the grave of this fellow soldier whom he had never met.[10]

Taken prisoner at Chickamauga in September 1863, Dr. Landis spent three months in captivity at Libby Prison, in Richmond, Virginia. Like all prisons of that war, Libby contained its share of overcrowded, unsanitary, and miserable conditions. Insects and rats, brutal guards and dangerous prisoners, filthy water and spoiled food all marked life in the Richmond prison. Still, conditions at Libby were considerably better than those at death traps such as Elmira, in New York, or Andersonville, in Georgia, and Abraham survived his predicament there rather well. He rejoined his unit following a prisoner exchange with the Confederates and, after being wounded by the cannon ball, was mustered out with his regiment September 27, 1864.[11]

The ordeal of the war permanently altered the future plans of Abraham and Mary. His injured leg and intermittent illnesses related to his wound prevented him from ever again practicing medicine on a regular basis, forcing the family to rely on ingenuity and subsistence farming to keep food on the table. Fortunately, by the end of the war, most of the children were old enough not only to help out on the farm, but also to obtain part-time jobs. In addition, the family continued to grow. Kenesaw entered the world on November 20, 1866, and the last child, Frederick, followed six years later. When

Kenesaw was born, the family lived in a crowded, three-room farm house on the outskirts of Millville.[12]

Knowing the family needed larger quarters, Abraham formulated a new plan which began to take shape during the next few years. In 1868, the Landises moved to another small farm in nearby Seven Mile, Ohio. About this time, Dr. Landis decided that opportunities in Butler County were limited. Like so many others in the Ohio Valley, he began to feel restless, discontented, and drawn to the new lands further west. Hoping to find a growing place in which his family could prosper and assume a prominent role, he embarked on an exploratory trip to several rising young towns. He visited Omaha. Nebraska, which he thought was too small, Chicago, which he believed was too swampy to be healthy, and Logansport, Indiana. As Logansport seemed to offer everything for which he was looking, he used his life's savings to purchase several lots both inside and just outside the town, planning to move his family there in the near future.[13]

Over the next few years, Abraham made trips to Logansport whenever he could get away in order to clear land and build the outbuildings that the new farm would require. On these trips he also hunted bear, which was unavailable in Butler County, to feed the family and to trade for other needed food and goods. Throughout the early 1870s, the Landises saved, scrimped, and borrowed, with their sights firmly fixed on the move to Indiana. In addition to selling what little surplus could be spared from the farm's output, Mary and the girls proved quite adept at creating finished goods from the raw, agricultural products. Over the years, Mary and the oldest daughter, Kate, won numerous awards at the county fair for goods ranging from canned fruits and vegetables to bread, butter,

embroidered blankets, and artificial flowers made from beeswax. These skills supplemented the family income as well as did the bits of money the boys were able to bring in from odd jobs performed after school and on weekends. Finally, in 1875, they packed their belongings onto their wagon and made the long, difficult journey to a small, bustling town about seventy miles north of Indianapolis.[14]

The Landises found Logansport to be a flourishing community with a bright future, though only a generation removed from the frontier. About 10,000 people lived within the town with another 5,000 just outside its limits. The first white pioneers came to the area in the 1820s, attracted by the potential of a settlement set just at the point where the Eel River empties into the Wabash. By 1830, 375 people lived in the "V" of this confluence and the rivers generated power for both a saw mill and a flour mill. Despite these improvements, Cass County and Logansport remained primarily a wilderness into the 1840s, with wolves, bears, and rattlesnakes plaguing the residents until the Civil War era. Not until 1838 were the last of the Pottawotamie Indians forcibly removed from the area, and the "Wabash Ague," a particularly pernicious form of a malaria-like fever, continued for years to drive settlers away from the low-lying valley. Before the 1850s, the muddy roads leading into the area usually proved to be virtually impassable, so heavy supplies had to brought in by water, by way of the Mississippi, Ohio, and Wabash rivers. As late as 1840, an Indiana traveller wrote that Logansport was "much less advanced," and "the life is much more that of the pioneer than in the other localities visited."[15]

In 1852, the railroads first came to town and began to alter the frontier-like conditions of Cass County. By 1860, rails connected Logansport to Chicago and other

major cities and the population had swelled to about 3,000. The real boom occurred, however, as in many northern cities, during the Civil War. From 1860 to 1870 the population tripled to about 9,000, dams were built on both rivers, and factories and mills appeared on their banks as manufacturers struggled to meet the demands of the Union war machine. In 1863, the Chicago and Eastern Railroad established the largest industry in the town, a fair-sized shop to build and repair cars. Over the years, the people of Logansport, like those of many other towns of the Middle West, developed a love-hate relationship with the railroads, grateful for the jobs provided and for the availability of wider markets for their products, but resentful of the power the companies wielded and their own growing dependence on the rails. As the war ended, over one hundred small industries or factories in the town employed nearly one thousand men and a handful of women and children. Yet agriculture still dominated the local economy, as more than two thousand farms operated in the county, most of these worked by the people who owned them. By the mid-'70s, this rapid growth had leveled off, but Cass County, Indiana was a prosperous place which continued to attract ambitious families such as the Landises.[16]

Aside from its importance as a transportation center and its connections to the outside world, Logansport contained many of the characteristics of what have been called the "island communities" of the period. Although classified as a city by nineteenth-century standards, it still bore the earmarks of a small town, comparable to places where millions of other Americans grew up. Life there was steady and predictable. The townspeople lived in similar houses, dressed alike, spoke the same language, and talked about the same things. Many of the people grew up together, knew each other's secrets, mourned

together when one of them suffered a loss, and celebrated together when the occasion called for it. If people found themselves called into the local court, they knew that they would be personally acquainted with the judge, and that justice would be tempered with mercy and understanding. Further, Logansport was a remarkably homogenous community in which most of the people who lived or conducted business were farmers. Less than 10 percent of the county's residents were foreign born, nearly all of those coming from the British Empire or Northern and Western Europe. As late as 1888, the appearance of two Italians passing through the town on the train was regarded as enough of an oddity to attract a crowd which was amused by the unusual clothes and language.[17]

Although it was confined to a discrete area across the river from the downtown section, a small but stable black population (about 150 people) also lived in Logansport. The town appears to have been relatively progressive on matters of race, although integration was definitely the rule. Discrimination existed, but it seems to have been frowned upon in some circles. The Republican newspaper, the *Logansport Daily Journal*, carried a weekly column called "The Colored People." This column occasionally editorialized against blatant discrimination or applauded African-Americans who stood up to insulting whites. Black baseball teams usually played against fellow black organizations from Logansport or other local towns. Sometimes, though, they competed against whites and, on at least one occasion, united with white players to defeat an outside team. As in most Northern cities, however, racial freedom was largely illusory, and discrimination increased in the last two decades of the century as the idealism of the Civil War faded from memory.[18]

Logansport boasted of its modern conveniences such as up-to-date schools and public facilities. Moreover, its railroads brought in many popular entertainments and public speakers. Barnum and Forepaugh stopped there regularly with their world-famous circuses; Buffalo Bill and Tom Thumb appeared; a "Magic Lantern" demonstrated the first crude motion pictures; speakers like Henry Ward Beecher, Elizabeth Cady Stanton, and Robert G. Ingersoll gave lectures which stimulated local discussion for weeks afterward. In addition, local entertainers, traveling gypsy camps, and militia contests relieved the drudgery of day-to-day tasks. Thus, the town in which Kenesaw grew up provided a well-rounded life typical of small-town America in 1875.[19]

Many of the people who settled in that part of Indiana had followed the same path as had Abraham Landis and his ancestors. To a large degree, they were Pennsylvania Germans who migrated first to Ohio, and then to northern Indiana. Most of these families had lived for a generation in the Ohio River valley, an area heavily populated by those, like Mary's mother, from the Scotch-Irish culture of the southern United States. The Pennsylvania Germans shared with the Southerners a suspicion and distrust of the more sophisticated and industrialized Northeast and they resented the patronizing attitude which Easterners held toward those from the West and the South. These Southerners, some of whom followed the Pennsylvanians to northern Indiana, also shared the same basic impulse to reduce the world and all its problems to a simple, recognizable whole through the use of proverbs and analogies, as well as with their own brand of folk ballads.[20]

In addition to these cultural influences, the frontier still endured as an important factor in the lives of those in the old Northwest. In 1875, Logansport was a generation

beyond the frontier experience, but the people of northern Indiana still carried many of the characteristics normally associated with pioneers. They were optimistic, filled with hope for the future of mankind, the United States, and themselves, and confident that they could make their dreams come true. They were proudly individualistic in terms of resisting social controls from the East, outside limitations on their conduct, or governmental interference which would block their own progress. They did, however, embrace and seek out government intervention against railroads or corporations if they stood to benefit from such activities, and they readily accepted controls on social behavior which originated at the local level. Furthermore, the solidarity demanded by frontier conditions persisted in this homogenous small town long after it had been settled, contributing to strong feelings of patriotism and sectional pride. Like others of the Middle West, they tolerated no criticism of their community, their region, or their nation, expecting blind faith in everything from religion to political loyalty. These were practical people whose behavior sometimes seemed contradictory, but who did what they believed to be necessary to get by and expressed little patience with theories or philosophy.[21]

Frontier attitudes persisted the longest in northern Indiana in the area of the law. When they first arrived, pioneers had only their innate sense of justice to protect them from anarchy. Their religious teachings and cultural backgrounds shaped perceptions of right and wrong, so value judgements usually took the place of impersonal law. Even as the area became settled, the inhabitants often expressed an open hostility toward the legal system. Many even thought that formal law was unnecessary, believing that common sense and honesty should govern transactions between men, not the technicalities of

English common law. The earliest settlers established temporary legal institutions to provide a stabilizing force while they concentrated on the essentials. In Indiana, however, the Jeffersonian-Jacksonian tradition of limited government made lawmakers reluctant to spend money on public services like education, courts, and sufficient law enforcement bodies, so the development of these institutions lagged behind the pace set by other states.[22]

In an attempt to compensate for this shortcoming, an 1852 state law gave legal sanction to private associations of "regulators" which then proliferated throughout the state, but were especially active in the recently settled northern area around Logansport. This law started a tradition of vigilantism, mob violence, and lynchings which continued well into the twentieth century and occasionally drew unfavorable national attention. Most Hoosiers, both private citizens and state officials, demonstrated an extraordinary tolerance of such activities, asserting that local law enforcement authorities had proven to be corrupt or lax in their duties. Once, when under attack, the "regulators" of the state banded together to publish a pamphlet which argued that, when the legal apparatus fails to operate as desired, "there is a law prominently inscribed upon the title page of every man's declaration of rights, an inherent law, a law of his nature, which under such circumstances it becomes his imperative [sic] duty to obey for the safety and welfare of himself and family." Thus, the people of northern Indiana, including those who provided Landis with many of the attitudes he carried through his life, believed in natural law and supported private efforts to defend their lives and property. Like their ancestors who settled the

frontier, they believed that these activities sometimes led to excesses, but probably did more good than harm.[23]

To the Landis family, Logansport, its culture, and its frontier attitudes provided a familiar and comfortable setting. Furthermore, the town seemed bigger, brighter, and more exciting than any of their previous rural homes. Boosters nicknamed Logansport "the City of Bridges" for the two dozen overpasses that spanned its rivers and, about this time, the *Indianapolis Sentinel* wrote that the city was "famed for its beauty, its shade trees, its numerous bridges, its elegant hotels . . . ." Kenesaw's younger brother, Fred, a respected writer, later used his boyhood home as the backdrop for a political novel. Waxing poetic while describing the beauty of the town, Fred wrote that it "was the highest point in all the country round, and the rivers formed a wishbone at its base." The townspeople had built the place around the trees, he added, "and left them--oaks, elms, walnuts, maples, sycamores--standing in the sidewalks--even in the streets, for these were wide beyond the dreams of traffic." The buildings, too, according to Fred, impressed newcomers, as "time stained columns before the courthouse hushed protesting tax-payers with an awe of government and refreshed artistic spirits with a glimpse of Greece." Fred completed this idyllic portrait by describing the houses as "venerable homes with wide porticoes; leaf and sunlight--playmates since creation--made golden pictures on lawns of plush; birds sang at their building; bees drank from roses; squirrels scampered off with the cares of earth . . ." Even allowing for considerable literary excess, the city offered an aesthetic beauty that the Landis family appreciated nearly as much as they did the economic potential and the community spirit which permeated every activity.[24]

Abraham moved his family into a temporary home and began construction of the large residence of which he and Mary had long dreamed. The two-story frame house took shape slowly, restricted by limited finances, Abraham's poor health, and the fact that he did most of the work himself. He erected the home on the corner of a block of land he had purchased at the east end of town. Having bought an entire city block of undeveloped land, he later platted and sold off the other lots as financial need dictated. Abraham also planted trees all around the block and put in a fair-sized garden on the property. This garden soon grew into a small farm as his failing health prevented him from working the thirteen acres of land he owned outside the town. Finally, in 1877, the family moved into the large white house on the corner of Seventeenth and Market streets.[25]

With Abraham unable to practice medicine or otherwise hold a regular job, the family earned income from a variety of sources. They received rent from their farm land outside town and, on their Logansport property, built houses which were then rented or sold. Abraham owned stock in and served on the board of directors of the Logansport Manufacturing Company; he dealt in real estate in other towns; he and the boys sometimes removed the earth from city construction projects, receiving money for their efforts and using the dirt to fill in low spots on their land. Mary also worked for a short time at a local hotel while the children helped out by periodically holding down odd jobs. Moreover, the Landises used a small amount of governmental aid to supplement their income, as Abe received a monthly pension of seventeen dollars for his war wounds and the county occasionally paid the family for temporarily housing the poor.[26]

The primary means of providing food and clothing, however, came from the small farm adjacent to the Landis home. The family lived in town, but their homesite bore all the earmarks of a more rural setting. They raised a wide variety of fruits and vegetables, rye, honey bees, and chickens, with most of these items winning cash prizes at the annual county fair. They also owned several cows, three dogs, and a mixed-breed horse called "Buckskin." The boys peddled milk, eggs, and produce to neighbors, collecting for their deliveries on Saturday nights. Occasionally they received cash payments, but more often, in a period when circulating money was scarce, these goods were bartered for some other needed goods or services. At times, Kenesaw and Fred would each bring an egg to the local grocery to be exchanged for candy. Moreover, the two boys, as the youngest in the family, never wore new clothes until they were able to buy them themselves. Mary and the girls altered Abraham's old clothes to fit first Walt, then Charlie, and so on until "Kennie," as he was known, and Fred received the worn-out, patched-up garments after years of use. Similarly, the boys received their haircuts at home and never experienced the luxury of a barber shop until they were adults. Even on Christmas, according to Fred, gifts were simple and often homemade, "a child being in luck if he pulled down a jumping jack and a candy elephant."[27]

Like many families of the Middle West, the Landises experienced the worst extremes of weather in summer and winter, doing their best to remain comfortable. They spent most cold days at school, outside doing chores, or gathered in the kitchen, which was heated by the stove used for cooking. After supper, they adjourned to the sitting room and the only other wood-burning stove in the house. Everyone sat around the reading

table under a smokey, coal oil lamp and did his or her work. Abe read the local Republican newspaper, Mary persisted at her endless knitting projects, and the children did their school lessons, stopping periodically for a knock-down, drag-out fight. When the clock struck nine, they all marched upstairs to bed, with Abraham fighting a rear-guard action to prevent any stragglers from slipping back down. Kenesaw and Fred, who shared a bed in a partially finished attic bedroom, slid into their icy bed wearing red flannels. In the morning, while it was still dark, their father's voice from the bottom of the stairs woke everyone and they grabbed their clothes to dress in the sitting room, where Abe had already lit the stove. From all corners of the house, the children came and dressed behind their respective chairs. Fred later wrote, "I learned a great deal about anatomy in those days." Then Mary started breakfast and the others began their daily chores or headed off for their before-school jobs.[28]

Despite the hard work involved with this existence, Kenesaw enjoyed a happy childhood composed of equal parts of Tom Sawyer and Horatio Alger. At ten years old, for his first regular job, he arose each morning at four A.M. to deliver the *Logansport Daily Journal*, earning $1.25 per week, money which was to be spent on clothes or other necessities. He rode Buckskin on his morning route and was escorted by his favorite dog, Jack. Jack's full name was John L. Sullivan, after the champion boxer, and he earned the association by successfully taking on any and all other dogs in town. Once, when Ken, Fred, and Jack, sneaked into the circus by crawling under the tent, the dog got them thrown out by trying to attack the lions and tigers in their cages. Kenesaw not only delivered papers from 1876 to 1880, at which time he passed the job on to Fred, but also

distributed dairy products for the family, performed small jobs after school, and worked on nearby farms during the summers. Saturdays were taken up by sawing wood or other chores.[29]

Even with this hectic schedule, however, the boys managed to find plenty of time for fun and recreation. At ten years old, Kenesaw appeared in the newspapers for the first time when he surreptitiously hitched a ride on a horse-drawn sleigh on the snowy streets of Logansport. The woman who owned the sleigh rejected the idea of additional passengers and stole his hat to discourage him, but she did not dampen his enthusiasm for winter sports in general. In the midwestern climate, winters could be harsh and long, but Kennie made the most of it by skating on the frozen rivers and participating in bobsled parties in the nearby countryside. Coasting on sleds down Spear Hill, the big incline in town, provided the most exciting winter's entertainment. Occasionally, the fire department would flood this hill, coating it with a thick layer of ice which allowed intrepid sledders to coast for blocks. Thousands of people would turn out for this special event, most as spectators who built fires, served sandwiches and coffee, and sang songs accompanied by a band.[30]

In warmer weather, Kenesaw graduated from marbles and rock-throwing contests to pick-up baseball games and the latest fads, whether pedestrianism, which was an early form of race walking, or roller skating. He also received notice in the local press for, while still a small boy, pulling a five-pound bass out of the Eel River. This enthusiasm for fishing remained with him for the rest of his life, as did his love of baseball.[31]

It was the county fair, however, which stood out as the annual highlight in the Landis boyhood years. Every fall, at harvest time, Abe loaded the entire group onto the one family extravagance, a new spring wagon, and, along with half-a-dozen or so neighborhood friends, drove to the county fairgrounds, paying only the family rate for the fifteen to eighteen people. Fred later recalled that they were once stopped at the entrance, where the surprised ticket taker asked if this was all one family. Abraham, normally a "Puritanical stickler for the truth," replied, "Why, Major, these are not the half of them!" and drove through the gate. Once inside, Fred and Kennie stuck together, wandering wide-mouthed among the taffy pullers, sword swallowers, dramatic floral displays, the "Wild Australian Girl," the mermaid, and the Egyptian Mummy. Short of money, they once crawled under the tent to see the mummy, but arrived unexpectedly early, just as the ancient corpse was sitting upright and vehemently demanding a raise. The boys could count on about four dollars each year in prize money for the crab apples produced by a tree in their yard and for their award-winning hen and rooster. Not content with that, however, Kenesaw once cooked up a scheme to win the twenty-five dollar prize offered for a mule race. Apparently, Buckskin, a fairly fast horse of questionable lineage, looked enough like a mule to fool the judges and other contestants, and Kennie planned to ride him in the race. Buckskin demonstrated too much speed in the warmups, though, and their plot was discovered. It was thus usually left for Mary to bring home the big cash prizes for her pies, cakes, jellies, jams, quilts, and fancy work. This windfall was usually seen as "extra money" and on the ride home she would tell each of her tired children what she planned to buy them.[32]

The strict doctrines of their Mennonite ancestors had been left behind by this point, but religion still played an important role in the lives of Mary, Abraham, and their children. Abraham appears to have been a stern, but kindly father whose orders were never disputed. He "took his liquor, his politics, and his religion straight," according to Fred, and scrupulously adhered to the truth in all situations. He started each day with prayer and saw to it that the rest of the family did the same, gathering them together for that purpose before breakfast. They belonged to the United Brethren Church in Millville before moving to Indiana, and the Broadway Presbyterian Church once the family settled in Logansport. The children accompanied their parents to services each Sunday and, outside of funerals, this represented the only time that they wore their good clothes.[33]

Despite the best efforts of his parents, however, Kennie became a religious skeptic at an early age, and organized religion never played an important role in his life. Even as a boy, he simply refused to accept the idea of a supreme being who controlled all earthly activities as part of a divine plan. He attended church regularly, but saw too much evil in the world to adhere to a creed which saw a "reason for it all." He also later expressed amazement that his parents, "both of whom I remember as of good intelligence, lived in that faith."[34]

If he rejected the supernatural aspects of formal religion, however, the moral lessons of Christianity provided a durable framework for his life. He followed the ten commandments and expected others to do so. He also believed in the golden rule which taught him to judge all people on an individual basis and to treat them as he himself would want to be treated. Above all, though, *people* were always more important than things.

He learned this code in church, but saw it reinforced every day by his family, his teachers, and his neighbors. Moreover, he absorbed from his surroundings and training a clear perception of the boundaries between right and wrong. In this regard, his friends, family, and teachers taught him to see things in black and white terms, with no shades of grey to confuse the issues. If the question at hand was too intricate, with layer upon layer of complex details, it could always be simplified and reduced to its basic components. Only at that primary level could the truth be seen clearly. Like millions of others who grew up in small towns across the United States in this period, Landis internalized these lessons, regardless of whether or not he believed in God. Eventually, he adapted these teachings to his own world view, convinced that hard work and kindness would be rewarded, and evil would be punished--but here on Earth, not in some vague, ethereal afterlife.[35]

Kennie's political education also started early and influenced the rest of his life. Originally a Democrat, Abraham became disenchanted with that party when they appeared to favor the extension of slavery. He had strongly opposed slavery and had supported the rights of black freedmen in the aftermath of the Civil War. He began voting Republican in the 1850s and, by the 1870s, he was an active member of the party of Lincoln. In 1877, just two years after arriving in Logansport, Abraham ran for the city council from his ward on the Republican ticket. The *Logansport Daily Journal*, endorsed Abe, calling him "a taxpayer interested in the welfare of his ward" and "an upright businessman" with "no political trickery about him." He lost this race by a solid margin during a general Democratic victory and never again ran for office. Abraham did, though, remain active in a variety of local political roles. He served many times as a delegate to city and county

conventions, headed various citizens groups, especially those pushing for civic improvements, and, in 1880, became a charter member of the Logansport chapter of the Grand Army of the Republic. His Pennsylvania German penchant for resorting to folk logic and proverbs even found its way into his political instincts, and he taught his children such things as, on election day, "a rainy day is a Democratic day."[36]

He passed on his political values and enthusiasm to his children, with Kenesaw taking part in Republican rallies at an early age. Abraham also taught Kenesaw to appreciate the fundamental principles of the American Revolution. The ideals of democracy, republicanism, liberty, and the Bill of Rights shaped Kennie's attitudes as much as the lessons of Christian morality. Furthermore, like many other Middle Western fathers of the period, he instilled in the boy an admiration for Abraham Lincoln that bordered on idolatry. Kenesaw read Lincoln biographies, memorized anecdotes, and did his best to pattern his life and his character after that of the slain president.[37]

While Abraham Landis loved his country and often drew on the memory of the Civil War for political inspiration, he was not a blind patriot. He repeatedly told his sons that he had suffered enough in battle for the entire family and that they should stay home and let the wealthy men fight the next war. He also insisted that there was something "radically wrong" with "a country that must be saved every few years."[38]

In addition to the informal education he received at home, young Landis attended Logansport public schools where religion, patriotism, and discipline were as much a part of the curriculum as the three "Rs." From the lowest level of McGuffey's *Reader* to the more advanced version of Redpath's *History of the United States*, lessons were presented

in such a way as to drive home religious precepts and to glorify the United States or the West. Teachers ran these schools in an almost-military manner, with students responding *en masse* to musical signals and marching in ranks from one location to another. In 1878, a visitor to a Logansport public school admiringly observed, "Just take the order of their dismissal . . . it will take six-hundred children out of their respective rooms into one common hall and down stairs, all in perfect order, without a whisper or disorderly act of any kind." Occasionally, a teacher carried this insistence on order too far and at least one student was beaten black and blue with a "big gad" by a female instructor. If a child managed to survive the discipline, outbreaks of scarlet fever or other diseases sometimes threatened the entire student body. Not surprisingly, Kenesaw expressed little love for formal education and sought an excuse to leave school at the first possible opportunity.[39]

By 1880, Landis had completed his primary education and had begun high school. He had learned many lessons both at home and in school, accepting some of them and rejecting others. At an early age he had made hard work a way of life, and the Middle-Western values of perseverance, probity, and frugality had become part of his personality. He had also begun to acquire a keen wit and a sharp sense of humor. His large, tight-knit family gave Kenesaw confidence for the future and proved to be a source of strength and support throughout his life. The Landis boys had started to make names for themselves in many different arenas of local affairs. Over the next two decades, Walter, Charles, John, and Fred developed into regional leaders in scholarship, journalism, and especially politics. Unexpectedly, though, it was the ambitious "little Kennie," the second youngest,

who emerged as the leader of this illustrious group and assumed the role of older brother to the rest.

Notes

1. Kenesaw Mountain Landis (Hereafter abbreviated as "KML") to Henry F. Pringle, 30 November 1926, KML Papers, Chicago Historical Society, Chicago, Illinois, (Hereafter referred to as "KML-CHS"), 16-132B (At the time of my research, the Landis papers had not yet been organized and cataloged; my notations, then, refer to the box number, and the file within that box. Hence, this letter was found in box 16, file 132B.); Thomas B. Helm, *A History of Cass County, Indiana* (Chicago: Brant & Fuller, 1886), 529; Whitelaw Reid, *Ohio in the War*, 2 vols. (Cincinnati: Moore, Wilstach, and Baldwin, 1868), 2:228.

2. KML to Henry F. Pringle, 30 November 1926, KML-CHS, 16-132B; Helm, *History of Cass County*, 529. Somehow an "N" was lost in the translation and Landis' name was spelled a slight bit differently than the mountain. Many variations of the story of his name found their way into print over the years as creative journalists sought a more dramatic tale. For an example of this, see *Washington Post*, 21 March 1893. In this particular version, Secretary of State Walter Q. Gresham is wounded at Kenesaw Mountain and treated by Dr. Landis, who so admired General Gresham's courage that he vowed to name his next son in honor of the moment. Gresham, according to the story, later returned the favor by hiring Kenesaw as his personal secretary in the State Department. None of this, of course, is true. Abraham never met Gresham, the General was wounded three weeks later at Leggett's Hill, and Kenesaw knew the judge for years before working with him in Washington.

3. Abraham H. Landis quoted from the "24th Landis Families Reunion Booklet" in a letter from Augusta Landis Bruffey to KML, 21 January 1940, KML-CHS, 16-132A; Helm *History of Cass County*, 528-29; *Logansport Pharos*, 10 November 1896; Jesse Leonard Rosenberger, *The Pennsylvania Germans* (Chicago: University of Chicago Press, 1923), 86-89; Carl Wittke, *We Who Built America: The Saga of the Immigrant* (New York: Prentice-Hall, Inc., 1940), 66-71.

4. Rosenberger, *Pennsylvania Germans*, 86-96, 122-23, 127-38; Wittke, *We Who Built America*, 77-90; Kramer, *Voices in the Valley*, 70-72, 88-89. A few examples of these proverbs and sayings are: "Don't hurry; walk steadily," "Everyone must carry his own hides to the tanner," "Who halts not, wins," "Where there is smoke there is also fire," and "When a dog is hit, it yelps." For much longer list, see Rosenberger, 128-29.

5. Abraham H. Landis quoted from the "24th Landis Families Reunion Booklet" in a letter from Augusta Landis Bruffey to KML, 21 January 1940, KML-CHS, 16-132A;

Helm *History of Cass County*, 528-29; *Logansport Pharos*, 10 November 1896.

6. Helm, *History of Cass County*, 528-29; *Logansport Pharos*, 10 November 1896; Ralph Leslie Rusk, *The Literature of the Middle Western Frontier* (New York: Frederick Ungar Publishing Co., 1962), 2 vols., I:264-68. One of the most popular of these readers, James Hall's *The Western Reader*, especially played up these Western themes, although the religious and moral tone still predominated.

7. Helm, *History of Cass County*, 528-29; *Logansport Pharos*, 10 November 1896.

8. *A Historical and Biographical Cyclopedia of Butler County, Ohio* (Cincinnati: Western Biographical Publishing Co., 1882), 618; *LPDJ*, 13 November 1881 (The longevity of the Kumler family is evidenced by the fact that eight siblings, ranging in age from sixty-five to eighty-four, attended Daniel's funeral.) U.S. Census Bureau, "Tenth Census of the United States, 1880," microfilm, roll 268, Cass Co., Ind., Eel Township., vol. 4, E.D. 30, sheet 63. Evidence of the sexual bias of this period is obvious when trying to discover anything about the women in the Landis-Kumler family. Genealogical accounts and county histories mention women only in passing and rarely even allude to the existence of females unless they marry a man of prominence. In most of these sketches, only the male children are listed.

9. Marriage Records, Butler County Courthouse, Hamilton, Ohio; genealogical information, author unknown, KML-CHS, 16-132A; Albert N. Marquis, ed., *Who's Who in America* (Chicago: The A. N. Marquis Co.), vol. 8, 1914-15 ed., 1365; some birthdates taken from gravestones, Landis plot, Mt. Hope Cemetery, Logansport, Indiana; R. Carlyle Buley, *The Old Northwest Pioneer Period, 1815-1840* (Indianapolis: Indiana Historical Society, 1950), 2 vols., 1: 270-72.

10. Helm, *History of Cass County*, 529; *LPDJ*, 10 November 1896.

11. Helm, *History of Cass County*, 529; *LPDJ*, 28 May 1885; James I. Robertson, Jr. and the editors of Time-Life Books, *Tenting Tonight: The Soldier's Life*, in the multi-volume series, *The Civil War* (Alexandria, Va.: Time-Life Books, 1984), 116-135; Reid, *Ohio in the War*, 2-228.

12. Helm,, *History of Cass County*, 529; Obituary, unidentified newspaper clipping, "Landis" file, Cass County Historical Society, Logansport, Indiana; *New York Post*, 19 June 1989. The home Landis was born in was built in the 1830s, has had many additions over the years, and still stands on the outskirts of Millville.

The 1880 census notes that Abraham missed six months of work that year due to his war wounds. He was definitely handicapped by his injury, but he still managed to build the house and do some work around the farm. Thus, it seems strange that he was unable to practice medicine, which would have been less demanding. I can only speculate, but it may be that he gave up medicine because of some psychological damage suffered in

the war from treating a steady parade of mangled young men.

13. Helm, *History of Cass County*, 529; KML to KML II, quoted in J. G. Taylor Spink, (Ghostwritten by sportswriter Fred Lieb), *Judge Landis and 25 Years of Baseball* (New York: Thomas Y. Crowell Co., 1947), 8-9; Appraisement List, Eel Township, 1864-1869, Cass County Courthouse, Logansport, Indiana; Robert H. Wiebe, *The Search For Order, 1877-1920* (New York: Hill and Wang, 1967), 15; Benjamin Wright, "Political Institutions and the Frontier," in Dixon Ryan Fox, ed., *Sources of Culture in the Middle West: Backgrounds Versus Frontier* (New York: D. Appleton-Century Co., 1934), 32.

14. Abraham H. Landis to Frank Q. Landis, 3 November 1871, KML-CHS, 51-533; Helm, *History of Cass County*, 529; *LPDJ*, 1 October 1878, 30 September 1879, 25, 26, 30 September 1880, 29 September 1881, 22, 24 September 1882. Because he was the youngest child by six years, "Kennie," as Kenesaw was called, was treated as something of a family favorite until his brother was born in 1872. Upon returning from the excursions to Logansport, Abraham brought only Kennie special presents and gifts.

15. Kate Milner Rabb, ed., *A Tour Through Indiana in 1840: The Diary of John Parsons of Petersburg, Virginia* (New York: Robert M. McBride & Co., 1920), 192-97, 200-14, 23-31 (quotes from 201); Buley, *The Old Northwest*, 1:244-45; Hugh McCulloch, *Men and Measures of Half a Century* (New York: C. Scribner's Sons, 1889), 79-95. Rabb's book is apparently a semi-fictionalized account of an actual diary, but it is impossible to tell which of the material is real and which of it enters the realm of literary license.

16. Charles Collins, *Logansport, Indiana: Its History* (Logansport: Morley and M'Clure, 1876), 3-7; *Logansport Pharos*, 21 April 1875; *LPDJ*, 6 January 1877; Emma Lou Thornbrough, *Indiana in the Civil War, 1850-1880* (Indianapolis: Indiana Historical Society, 1865--v. 3 of a 5 volume history of Indiana), 319. 333, 422, 454-55, 561; Department of the Interior, Census Office, *Statistics of the Population of the United States at the Tenth Census* (hereafter cited as "1880 Census") (Washington, D.C.: Government Printing Office, 1883), vol. 2, 224, vol. 3, 46-47. The major industries listed were lumber, brick and tile, flour and other processed grains, and cooperages. Of the 2,199 farms in Cass County, 506 were under fifty acres, nine were over five-hundred acres, and the average size was 108 acres; 1630 owners cultivated their own land, with seventy-nine farms rented for money and 490 rented for shares of the harvested crops.

17. Wiebe, *Search for Order*, 1-4, 11-17; Collins, *Logansport*, 7-8; *LPDJ* September 1888. According to the 1880 census, 2,402 of Cass County's 25,506 residents immigrated to Logansport from the following places: German Empire, 1,069; Ireland, 732; England, 242; British America, 155; Scandinavia, 39; France, 37; Scotland, 30; Switzerland, 24. *1880 Census*, Vol. 1, 505.

18. *LPDJ*, 8 May 1877, 18 July 1877, 20 April 1879, 31 August 1881, 16 June 1883, 24 August 1883, 2 September 1883, 18 July 1885, 2 July 1886, 12 August 1887; *1880 Census*, vol. 1, 418. Both the black population and the level of tolerance among Logansport's white citizens seemed to decline in the late 1880s. In 1890, 136 blacks lived in the city, down from 172 in 1880. Also, in 1887, derogatory stories or those which referred to African-Americans as "coons" began to appear in the local newspapers.

19. Wiebe, *Search for Order*, 1-4, 11-17; Collins, *Logansport*, 7-8; Richard G.Boone, *A History of Education in Indiana* (New York: Appleton and Co., 1892), 303; *LPDJ*, 3 February 1877, 14 February 1878, 21 March 1878, 23 May 1878, 17 May 1879, 23 May 1879, 3 September 1879, 4 February 1880, 11 February 1880, 15 August 1880, 3 September 1880, 18 January 1881, 3 March 1881, 4 August 1881, 28 April 1882, 5 March 1884.

20. Rabb, *A Tour Through Indiana*, 204-14; Thornbrough, *Indiana in the Civil War*, 4; Kramer, *Voices in the Valley*, 63-65; Thornbrough and Riker, *Readings in Indiana History* (Indianapolis: Indiana Historical Bureau, 1956), 194.

21. Ray Allen Billington, *Westward Expansion: A History of the American Frontier* (New York: The Macmillan Co., 1949), 743-48; John D. Hicks, "The Development of Civilization in the Middle West, 1860-1900," and Avery Craven, "The Advance of Civilization Into the Middle West in the Period of Settlement," in Fox, *Sources of Culture*, 48-51, 96-97; Lucy Lockwood Hazard, *The Frontier in American Literature* (New York: Thomas Y. Crowell Co., 1927), 279-81. As one historian put it, "The term 'frontier' is not only applicable to outer fringes of sporadic settlement, but also to social life far removed from these conditions of hardship usually associated with an absolutely new country. The effects of the frontier persist long after the first pioneer line has moved on. In this sense pioneer influences in America have affected our local and national life long after the first settlers with their canvas-topped wagons disappeared over the western horizon." Robert Hill, *The Public Domain and Democracy*, quoted in Hazard, 251.

22. Kramer, *Voices in the Valley*, 72-73; Wright, "Political Institutions and the Frontier," in Fox, *Sources of Culture*, 16-17; Avery Craven, "The Advance of Civilization Into the Middle West in the Period of Settlement," in Fox, *Sources of Culture*, 66; James J. Robinson, "Admission To the Bar as Provided For in the Indiana Constitutional Convention of 1850-1851," *Indiana Law Journal*, 1 (1926) : 210-11; Jamil S. Zainaldin, *Law in Antebellum Society: Legal Change and Economic Expansion* (New York: Alfred Knopf, 1983), 10; Thornbrough, *Indiana in the Civil War*, 5-6. The call for legal reform was widespread during the Jacksonian period, but seemed especially strident in Indiana. At the Indiana Constitutional Convention of 1850, efforts to reform the law began with the resolution to "abolish the common law of England." Many of the delegates expressed a widespread concern that the law had become too complicated and too hard for the average man to understand, and they therefore believed that the entire system needed to be

simplified and democratized. Without a viable alternative, the common law was retained, but the legal profession was opened up to all voters of "good moral character." Robinson, 209-17. For further details, see chapter three.

23. Thornbrough, 6-8, 270-73; Clinton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis: Indiana Historical Society, 1968), vol. 4 of a 5 vol. history of Indiana, 371, 374-78; *History of the Regulators of Northern Indiana* (Published by order of the Central Committee, Indianapolis: 1859), 17-18, 21, 63 (quote). In the 1880s, while Kenesaw was still in Logansport, the "White Caps," a KKK-like regulator movement, began using violence and terrorism to enforce their private standard of morality upon the state. The *New York Times* repeatedly criticized Indiana state officials for not doing more to stop these incidents, but the activities continued into the next decade. Phillips, *Indiana in Transition*, 371-74; *New York Times*, 12, 21 October 1887, 20, 25 May, 1 August, 8 September 1888.

24. Collins, *Logansport*, 9-10; *Indianapolis Sentinel*, quoted in *LPDJ*, 19 February 1884; Frederick Landis, *The Glory of His Country* (New York: Charles Scribner's Sons, 1910), 3-4. Fred called his fictional town "Happyville" and set the novel in the 1870s or '80s. This story was later written into a play, "The Copperhead," by August Thomas and produced in New York with John Barrymore in the lead role. Arthur W. Shumaker, *A History of Indiana Literature*, (Indianapolis: Indiana Historical Bureau, 1962), 420.

25. *Logansport Pharos-Journal*, 21 February 1952, quoted in an unpublished manuscript (with photographs), "Old Homes of Logansport, Indiana," compiled by Mary Shultz for the Cass County Historical Society in 1960, p. 103 (located in the Logansport Public Library, Rare Book Collection). The Landis home remained in the family and stood until 1952, when it was sold to an oil company and levelled. Abraham rented out the thirteen acres of land outside Logansport beginning on September 29, 1877. *Appraisement List and Transfers of Real Estate in Cass County, 1874-1878*, Cass County Courthouse, Logansport, Indiana.

26. U. S. Census Bureau, *Tenth Census of the United States, 1880*, microfilm, roll 268, Cass County, Indiana, Eel Township, vol. 4, E.D. 30, sheet 63; *LPDJ*, 15 May 1883, 8 January 1879, 8 September 1880, 25 December 1877, 28 December 1877, 3 January 1878, 4 January 1878, 6 October 1883, 25 May 1885, 30 September 1887, 16 September 1888, 19 March 1890; Joseph Beasley, and Harry Wilstach, eds., *Logansport Directory for 1879-80* (Lafayette, Ind.: Spring and Robertson, 1879). Abraham also served as a trustee of the county asylum located in Logansport, but it is not clear whether or not this was a paid position. *LPDJ*, 7 May 1890.

27. *LPDJ*, 17 September 1878, 1 October 1878, 30 September 1879, 25, 26, 30 September 1880, 29 september 1881, 22, 24 September 1882; Frederick Landis, *The Hoosier Editor*, January 1934, 21-25, September 1934, 7. *The Hoosier Editor* was a

monthly magazine of folksy stories and down-home wisdom written and published by Fred Landis for about eighteen months in 1933 and 1934.

28. Landis, *Hoosier Editor*, January 1934, 25-32.

29. Landis, *Hoosier Editor*, January 1934, 23-25, July 1934, 21-30; George Ade, "What We Can Learn From Kenesaw and Will," *American Magazine* 94 (November 1922) : 18; Sarah S. Pratt, *The Old Crop in Indiana* (Indianapolis: The Pratt Poster Co., 1928), 207; Obituary, unidentified newspaper clipping, "Landis" file, Cass County Historical Society, Logansport, Indiana.

30. *LPDJ*, 21 January 1877; Landis, *Hoosier Editor*, March 1934, 3-4.

31. *LPDJ*, 18 February 1877, 16 April 1879, "Judge Landis, the New Czar of Baseballdom," *Literary Digest*, 67 (4 December 1920) : 46.

32. *LPDJ*, 27 August 1880, 29 August 1885, 21 November 1885; Landis, *Hoosier Editor*, September 1934, 5-14. Mary also occasionally won money or prizes for her baking skills in contests not associated with the county fair. *LPDJ*, 6 December 1888.

33. Landis, *Hoosier Editor*, January 1934, 22, 27, 29-32; *Indianapolis Sunday Star*, 18 November 1934, in "Landis" clipping file, Logansport Public Library; *Logansport Pharos*, 10 November 1896.

34. KML to George Ade, 21 June 1940, George Ade Papers, Purdue University, West Lafayette, Indiana.

35. American author William Faulkner once discussed this internalization of the morality of Christianity, explaining that, despite his non-belief in God, the Christian "legend" formed a vital part of his background. "My life," he observed, "was passed, my childhood, in a very small Mississippi town, and that was a part of my background. I grew up with that. I assimilated that, took that in without even knowing it. It's just there. It has nothing to do with how much of it I might believe or disbelieve--it's just there." Quoted in Cleanth Brooks, *William Faulkner: The Yoknapatawpha Country* (New Haven, CN: Yale University Press, 1963), 41.

36. Helm, *History of Cass County*, 364, 529; *LPDJ*, 24 April 1877, 1 May 1877, 2 May 1877, 25 April 1878, 24 April 1879, 5 November 1879, 27 February 1880, 8 December 1880, 6 March 1881, 8 April 1881, 2 September 1882, 10 September 1882, 3 May 1884, 14 June 1884, 13 August 1884, 16 December 1886, 5 January 1887, 29 April 1888; Abraham H. Landis quoted in Mary K. Landis to KML, 7 November 1898, KML-CHS, 33-363 ("rainy day"). The Grand Army of the Republic, or G.A.R., was a veterans group which served as a political wing of the Republican party.

37. *Quincy (Ill.) Daily Herald*, 4 September 1907; *Peoria Transcript*, 17 March 1915; Ginger, *Altgeld's America*, 1.

38. Mary K. Landis to KML, 25 February 1898, KML-CHS, no box, file 1890-1910.

39. *LPDJ*, 24 August 1877, 2 September 1877, 16 February 1878, 16 February 1878, 2 April 1880, 15 October 1880, 11 March 1881, 10 June 1883.

CHAPTER 2
YOUNG MAN ON THE MAKE

Between 1881 and 1889, Landis wrested control of his life away from his parents and set off on his own path. While still a teenager, he decided what he wanted and he designed a plan to help him achieve those goals. In addition to this determination, other aspects of his personality began to come into focus during those years. He possessed a competitive nature which led him naturally toward sports, the legal profession, and into that most competitive arena of all, politics. Not one to rely on luck or to wait for his chances, he went out and grabbed opportunity by the throat. He held strong opinions, often presented in a moralistic, self-righteous tone, which were influenced by his family and the Middle Western values with which he grew up. Nevertheless, these views were distinctly his own and he displayed little reticence in voicing them. He demonstrated an aptitude for leadership and an inclination toward bluster and showmanship. Finally, he attacked every task with an infectious optimism and good humor which endeared him to those around him. Together these traits caused him to charge at the world with a "full speed ahead and damn the torpedoes" attitude. This mode of operation would win him many admirers during the years to come--as well as a large number of enemies.

Landis was not one to be satisfied with simply finding a comfortable career. He was driven by ambition. He craved success and quickly grew impatient when the world

was slow in acknowledging his genius. He lived for recognition. But even at this early age, he found it difficult to compromise his convictions in order to gain approval. Fiercely independent, he wanted to call his own shots and be his own master. This led him to drop out of school and change jobs frequently. He designed a tiered plan for self-improvement, but moved beyond each level earlier than he probably should have; a sense of urgency and an inflated estimation of his own worth convinced him that he had learned all he needed from that particular stage. His 1889 decision to attend law school, however, demonstrated that he was maturing: reality had taught him that there were compromises that even Kenesaw Mountain Landis would have to make.

Only to a point did Landis follow the path blazed by his older brothers, as he occasionally used their examples and their contacts to ease his way into particular phases of his career. In many nineteenth-century families, the father or the oldest sons paved the way for the younger boys who then followed them into pre-chosen careers. Abraham and Mary Landis, however, encouraged individualism and wanted each son to make his own name. They wanted their boys to choose careers carefully and not to commit themselves until they were sure that they had made the right choice. Walt, Charles, and John set strong examples for Kenesaw, and his sisters and parents helped him where they could, but in most cases, he chose to break the family mold by stubbornly going his own way despite problems and hardships. For instance, where his older siblings enjoyed academic success, he dropped out of school. In addition, he could have followed his father and brother John into medicine or the other boys into journalism, but he had different plans and resisted any and all attempts to alter his decisions. Landis shared with his three older

brothers an ambition to improve his station in life. Like their younger brother, Walter, Charles, and John spent the 1880s wandering from job to job in search of an appropriate venue for their talents.

Walter, the eldest, graduated from high school in 1876 at age twenty and worked as a country schoolteacher for a few months. He then began the Landis-family connection with local journalism by joining the *Logansport Daily Journal*. Initially a reporter, he eventually moved up to the position of city editor. Described by a reader as "an excellent writer, accurate and easy," Walter opened the door for his brothers, each of whom worked for that paper in some capacity over the years. He participated in grass-roots politics and purchased a share of a struggling weekly newspaper, the *Saturday Night*, using it as a Republican organ. Growing restless in Logansport, Walter proved himself the adventurer of the family by spending nearly a year travelling through the West and in Mexico with a friend, intending to start a business near the frontier. Offered a position with the *Chihuahua News*, a half-English, half-Spanish newspaper in Mexico, he declined, explaining "complaints about stories come in the shape of bullets rather than words." He returned to Logansport in 1884, but two years later moved to nearby Marion where he finally settled down as editor of the *Marion Chronicle*.[1]

Charles, the next oldest, earned a reputation at an early age as one of the best debaters and public speakers in town. An outstanding high-school student, "Gus," as he was known to the family, was the star of the Logansport literary society debating squad. He continued his education at Wabash College, in Crawfordsville, Indiana, where he graduated in 1883, achieving widespread recognition for both his high grades and his

oratorical skills. In his graduation speech, "Conservatism," he echoed his father's political philosophy, arguing that the conservative forces in society carried the real elements of progress by slowly and carefully weighing the benefits and drawbacks of the ideas of reckless reformers. In 1883, he assumed Walter's former duties as city editor of the *Journal*, earning the job by serving as a correspondent to that paper many times during his college years. As to his writing skills, one woman recalled, "his witty pen kept the town in an uproar."[2]

Charles, too, became involved in local politics at the ward and city level, although, in the 1880s, he did not yet feel confident enough to run for office. He toyed with the idea of studying law, but instead, in February 1887, he purchased the Republican newspaper in nearby Delphi. He saw the *Delphi Journal* as his ticket to public office and used its columns to promote his political opinions. Late in 1887 he became the first of the Landis children to wed, marrying a local girl in Logansport.[3]

Like Charles, John Landis achieved success in school and served as president of the high school literary society. In his graduation speech in 1879, he discussed America's role in the world and, according to the local newspaper, "administered a black eye to Socialism, Communism, and Mormonism, each the offspring of ignorance, and advocated compulsory education as the remedy." He then worked in a railroad dispatch office in Ohio for two years before beginning the first of several patronage positions with the post office. In between these post office jobs, he also worked as a travelling salesman for a Chicago firm and formed a social and athletic club for young men in Logansport. In 1886, John was fired from the post office by his new, Democratic boss because of both

his political activities and the fact that two of his brothers edited Republican newspapers. After two months in Minneapolis as a bookkeeper, he finally decided to follow his father's footsteps and pursue a medical career. He began studying with the county coroner, but completed his instruction at Abraham's alma mater, the Ohio Medical College in Cincinnati, graduating in 1890.[4]

If the Landis sons seemed to meander their way in stops and starts toward fulfilling careers, the two daughters had little or no opportunity to do the same sort of exploration. Both girls were intelligent--perhaps brighter than their brothers--yet neither received the opportunity to better herself. To an agriculturally based family such as the Landises, females were valuable primarily to the extent that they could help raise their brothers and assist their mother around the farm. In some ways, the Landis parents may have been disappointed that their two eldest children were born female. The younger girl, Francis, was invariably called "Frank" throughout her life, even as an adult. Despite being held back from school for years to help with her brothers, she graduated from high school with honors at age twenty-five and served as president of the school literary and alumni societies. After 1880, she taught grammar school in town. The oldest girl, Katharine, known as Kate, attended high school and even started classes at Otterbein College in Ohio. She never finished college, however, as her services were required when Fred was born, and she thereafter remained at home, helping her parents and her brothers. Both women demonstrated promise and leadership at an early age, but, while their brothers advanced their careers, Katharine and Francis remained homebound and exploited.[5]

Abraham Landis placed great stock in the value of education. He wanted all of his sons to finish high school and then find an arena in which they could make their mark in the world. His five sons could not necessarily hope to marry into a comfortable life. Nor, of course, would they inherit a large farm or business upon which they could live. Education offered them the only sure chance for social or financial success. By the 1880s, the three oldest boys had followed this strategy by completing high school and one of them, Charles, had taken it a step further by attending college. Therefore, it came as quite a shock to Abraham when he walked into the local grocery store one spring morning in 1881 and found his fourteen-year-old son, Kenesaw, at work behind the counter rather than at school. The irate father avoided a public scene and went home to wait for Kennie.

Abraham rarely lost his temper, but this breach of family rules was more than he could tolerate. Later that evening, Kenesaw received both barrels of his father's pent-up anger. The teenager weathered the storm before calmly presenting his position with an argument he had probably been preparing for some time. After several months in high school, he explained, he had grown tired of the regimen and, as Indiana did not yet have a law requiring compulsory education, he had simply left school to take a job as a clerk, keeping the move a secret from his father. Despite a difficult struggle with algebra, he had done well enough in his studies. But he believed that he had learned all he needed to know and was ready to try his luck in the world. He was hard-working, intelligent, and ambitious; school seemed only to slow him down. The debate continued for hours, but Kenesaw proved as strong-willed as his father. Abraham conceded defeat; the future lawyer had won his first case.[6]

An unwillingness to accept direction from superiors, in this case his teachers and parents, may also have precipitated Kenesaw's decision to leave school. An immense measure of self-confidence gave him a desire to control his own destiny. This incident began a pattern that Landis repeated many times in his life. He believed so strongly in his own abilities and judgment that he rejected supervision from authority figures. He also spurned advice or opinions that ran counter to his own desires. In addition, he turned his lack of religious faith into a pragmatic philosophy of self-reliance. He assumed that divine providence would not always furnish the fruit he desired; he was fully prepared to go out and shake the tree. At age fourteen, he saw himself as a young man of exceptional abilities who needed only the proper circumstances in which to demonstrate his virtuosity. The rest of the world, however, still saw him as an adolescent who had yet to prove himself.

He quickly grew tired of working at the grocery store for a few dollars a week and began looking for a more promising career. His diminutive size, combined with his lack of experience, however, hurt his chances with prospective employers. Late in 1881, he quit the grocery store and accepted another less-than-promising job as an errand boy for a railroad office. During these dismal months, Landis began to wonder if his decision to quit school had been the correct one. Then, in mid-1882, a friend obtained work as a stenographer after training himself in the art of shorthand, a relatively new skill in the 1880s. The friend convinced Kennie that he, too, could master the craft. Landis chose shorthand as a positive step toward success and applied himself vigorously to learning the Pitman system, with help from his friend and from his sister, Kate. By the end of the

year, he had become proficient enough to land a job with the only stenographer's office in the county.[7]

Thus, Landis joined the growing army of white-collar workers who entered newly emerging professional occupations. The number of typists and stenographers in the United States grew dramatically between 1870 and 1900 as part of a larger movement in which the need for new clerical specialties arose in response to the rapid pace of industrialization. Landis followed a horde of other young Americans of the period by leaving the farm for the greater opportunities offered by clerical work. These careers usually required little specialized training but presented a way for ambitious young people to better themselves. To a large number of Americans, even poorly paid white-collar workers were often regarded as more respectable than their manual-labor counterparts. Not incidentally, many who chose these new careers saw such positions as a way to escape the numbing monotony of rural life. Employers needing these workers were generally located in cities, and young people flocked to the mushrooming urban centers both for the jobs and for the promise of a more exciting lifestyle.[8]

By this time, Landis was beginning to see Logansport as a dead end of hopeless drudgery. He chafed under the close supervision of his parents and teachers and yearned for the adventure of travel and life on his own. A stenographer's career offered a chance for immediate escape. The two-man company which he joined served as the official court reporters for four Indiana counties and required additional stenographers to meet the growing demand. Landis filled this need for several months, sometimes accompanying his associates to local courtrooms and other times venturing off on his own as far away as

Crown Point, Indiana, near Chicago. This taste of freedom from his father's control gave the sixteen-year-old a desire to be out on his own, leading him to look for a job that would allow him to live away from home. Thus, in February, 1883, Landis moved to Indianapolis to accept a position as clerk in the offices of the Pittsburgh, Cincinnati, and St. Louis Railroad. This company, nicknamed "the Panhandle" locally, was a branch of the Pennsylvania Railroad, which was in the process of consolidating smaller operations into a national network.[9]

Growing up in a railroad center such as Logansport, Landis had become intrigued with the idea of working on trains. As did many young people of the period, he equated railroads with romance, travel, and distant lands. Never one to believe that good things will come to those who wait, Landis aggressively pursued a railroad position in Indianapolis. He made an appointment with John F. Miller, the head of regional operations of the Panhandle and one of the most influential men in the state, and boldly requested "a job--any kind of a job." Landis never grew larger than 5'7", 125 pounds and, as he was not yet fully grown, Miller was amused by the nerve of this small boy. In spite of this audacity, or perhaps because of it, he hired Landis as a clerk for the Train Master in Indianapolis and wrote a letter of recommendation stating, "The boy referred to will someday make a railroad man." Landis thanked Miller and, while backing out of the office, gushed, "I would rather be . . . a conductor of those big passenger trains than be President of the United States."[10]

If his ultimate dream was to work on the trains themselves, however, his shorthand skills made him more valuable in the office, and this desire remained unrealized. Three

months after leaving home, the *Logansport Daily Journal* reported that Landis had "become quite proficient in the art of phonography" and that he had been promoted from clerk to secretary and stenographer in superintendent Miller's office. He stayed in a boarding house in Indianapolis and seemed to thrive on the relative independence of his living quarters as well as on the vibrancy of the state capital. Moreover, his job brought him into the fringes of the Indiana political scene and enabled him to meet many important people. Despite his exciting lifestyle and adult responsibilities, however, Kenesaw was still a young boy in many ways. Accustomed to being surrounded by family and friends, he grew homesick. Therefore, in summer 1883, Landis requested and received a transfer to the Logansport office of the Panhandle.[11]

Back home, he carried a new status as one who had been out in the world, but easily settled back into the life he had left a few months earlier. He had always loved competition and athletics, and Landis caught the fever for the bicycling craze which had achieved popularity about that time. In June, John Landis and a friend had purchased a mail-order bicycle with a forty-eight-inch front wheel, spending several weeks entertaining the town while trying to master its mysteries. A month later, Kenesaw, with dreams of a racing career, bought the bike at a discount from the frustrated riders. By September, he had conquered the device well enough to enter the amateur division of the bicycle races at the county fair. In an attempt either to intimidate his opponents or simply to attract attention to himself, Landis purchased a box of ribbons and medals from a local curio shop and, before the race, paraded around the fair grounds with these decorations pinned to his

puffed-out chest. Despite this ruse, he finished only second out of four racers on a muddy track and ended his bicycling career.[12]

This predilection for calling attention to himself earned Landis a new nickname in the 1880s. After he outgrew "Kennie" and before he accepted "Kenesaw Mountain," family, friends, and newspapers began referring to him as "Squire" Landis. As a child, he was somewhat uncomfortable with his baptismal name and because of it he was pestered unmercifully by other boys. Even as he grew older he officially used "K.M." Landis or "Kenesaw M." rather than his full name. The nickname "Squire" started as a teasing joke, with friends and family comparing him to a manorial landowner taken with his own sense of self-importance. "Squire," short for "Esquire," was also used by local papers as an informal title for anyone in a respected judicial position, from sheriffs to Supreme Court justices. As Landis emerged as a local leader of young Logansporters, the name acquired this added tone of esteem and affection rather than reproach and, through the years, new friends picked up on the nickname and used it in personal correspondence.[13]

"Squire" Landis's leadership qualities first surfaced in the field of politics. As a boy, he became deeply involved in political discussions and arguments which he only partly understood. Later, he never missed local political rallies, which, at the time, bore a marked similarity to exciting religious revivals. Here, as in all phases of life in Logansport, complicated issues were reduced to basics, with one candidate being painted as evil incarnate while the other would seem to embody everything good and holy.[14]

In June 1884, just after the Republican national convention, he threw himself vigorously into the presidential campaign, organizing the "Young Men's Republican Club"

for boys not yet old enough to vote. Elected president of this organization, Landis, then seventeen, gave his first public speech, which the newspapers reported as being "enthusiastically received" by the eighty members. In an era of excess in politics, Landis flourished in the heat of the campaign battle, giving speeches, leading torchlight parades, and greeting Republican candidates as they arrived in Logansport. His club further asserted their ubiquitous presence by adopting gaudy uniforms and organizing a drum corps. On October 21, presidential candidate James G. Blaine and prominent Republicans Benjamin Harrison and William McKinley spoke before thousands of supporters in the town, with Landis' club playing a conspicuous role as escorts. Two nights later, he held a rally at his house in which banners bearing political slogans were raised on a makeshift flagpole. Landis gave a speech praising Blaine and condemning Democratic candidate Grover Cleveland before handing out cigars at the conclusion of the rally. These efforts proved to be in vain, however, as Cleveland prevailed both nationally and locally in the hotly contested battle.[15]

Over the next fifteen months, Landis continued his work as stenographer and right-hand man for the superintendent of the Logansport office of the Panhandle. In this capacity, he became involved in day-to-day management decisions and accompanied his employer on inspection tours of the tracks, bridges, and facilities of the railway, travelling west to Illinois and east to Pennsylvania. In 1885, he spent nearly three months living in Chicago while the Logansport offices were being remodelled. This was his first extended stay in that city and he became fascinated by its size, its culture, its people, and its vitality. That same year, moreover, Landis helped organize a picnic for the local blue-collar

employees of the railroad. By the age of eighteen then, despite his family background and limited income, he began to see himself as a white-collar member of the middle class, distinct from the workers and their families.[16]

He also began to think seriously about his future. While just a boy, Landis had sometimes expressed an interest in becoming a lawyer. Abraham had tried to dissuade his son from this notion, in part because he disliked lawyers, but primarily because, viewing his son with a father's critical eye, he did not believe that little Kennie, the high-school dropout, possessed the persistence, intellect, or temperament to make himself a success in the courtrooms of Indiana. Then, in January 1886, while still undecided as to what occupation to pursue, Kenesaw attended the fiftieth wedding anniversary of his great aunt and uncle in Dayton, Ohio. At this celebration, he talked with the eight sons of the honored couple--every one of them a lawyer. In the course of these conversations, Landis became convinced that the legal profession offered status, a comfortable income, and definite promise for a man of his verbal and intellectual skills. He was also attracted by the fact that Indiana statutes at the time did not require lawyers to pass an examination but only to prove that they were twenty-one years old and of "good moral character." Thus he could spend a year or two reading law with a family friend, and qualify for the bar by the time he came of age. Moreover, he had begun toying with the idea of entering politics and he believed that a legal career could provide a base upon which he could build a political following. He decided that he would become an attorney, and the sooner he could get started, the better.[17]

A few days later, he began reading with Judge D. P. Baldwin, a family friend, the local legal authority, and the former Attorney General of Indiana. Baldwin accepted Landis as a student not only because of his friendship with Abraham, but also because he saw promise in young Kenesaw. However, over the next twenty-two months, Landis read only sporadically and spent little actual time with Baldwin, as the judge travelled widely, giving speeches and lectures on legal subjects or on behalf of Republican candidates. Landis himself, with his hectic schedule and repeated moves during that period, was too busy and unsettled to give the law books more than a cursory glance. Still, he enjoyed the material, read quickly, and was gifted with a quick mind. So, despite this rather superficial attempt at legal education, Landis managed to gradually absorb a basic knowledge of Indiana law.[18]

In February 1886, he quit his railroad job and returned to court-reporting, becoming the official reporter of the Lake County circuit court in the northwest corner of the state. In doing so, he intended to work part of the year in Crown Point, Indiana and to spend the time between court terms studying law in Logansport. By this point, he recognized the value of recording the proceedings in courtrooms where he could view the law in operation on a daily basis. In this capacity, he studied the way a good lawyer could sway judges and juries with the clever use of metaphors and analogies, enabling them to see his side of the case more clearly. In fact, in light of his limited time with Judge Baldwin, Landis probably learned as much about law from court reporting in this period as he did in the actual study of law books.[19]

Lake County impressed him initially. The *Logansport Daily Journal* reported, "[Landis] is stuck on Crown Point and the people and contemplates marrying and settling down there." He was far from ready to settle down just yet, however. The court days were long for reporters, frequently extending from 8:00 in the morning until 10:00 or 11:00 at night, but the terms were short, affording him ample free time to pursue other interests. Between court terms, he began his law studies in Logansport, but that exercise proved insufficient to contain his boundless energy. He offered his stenographic services to his brother Charles at the *Journal* as a special reporter capable of recording speeches and courtroom trials. His proposal was accepted, and in early May, he found himself in Chicago covering the legal battles surrounding labor unrest in that city. When Haymarket Square exploded in violence on May 4, 1886, therefore, Landis was coincidentally on the scene, and he fired off telegrams reporting up-to-the-minute conditions in Chicago. The *Journal* stories on the Haymarket incident, influenced by Landis' reports, were sensationalist and biased, condemning all of the protesters involved as anarchists and radicals.[20]

Later that month, Landis travelled to Crawfordsville to cover the execution of a notorious wife murderer. He wrote a lengthy story detailing the killer's background, the crime, and his final speech. The article demonstrated that, despite his lack of formal education, Landis had developed into an intelligent young man capable of writing well, although within the over-blown journalistic style of the day. He concluded this story in a moralistic tone, writing: "His love of women and whiskey was his ruling passion and led to his own destruction."[21]

During this period he also found an opportunity to use his raw legal skills in a local dispute. In July 1886, a group of Logansport boys called on Landis to represent their interests before the town council. The council had recently passed a law which prohibited swimming in the Eel River within city limits in an attempt to eliminate the dangerous threat of naked boys frolicking within sight of respectable females. Now nineteen years old, Kenesaw had established himself as the leader of many of the young men in town, and his legal studies made him the logical choice when they needed someone to make their case before the city fathers. In a rational, well-organized letter, Landis argued that, under the provisions of the new law, the boys would be forced to swim in the area which provided the town's drinking water, thus adding "impurities" to the water supply. He also offered a compromise solution, stating that the law could be amended in such a way that would allow for swimming in the disputed area only after dark. His argument so impressed the council that they immediately changed the law to comply with Landis' request and, the following night, scores of boys celebrated by swimming in the pool below the dam.[22]

The next few months were a whirl of activity. He covered commencement exercises and courtroom trials in Chicago and around Indiana. He also worked for his old stenography boss, taking depositions and reporting court proceedings in Grant County between newspaper assignments. Moreover, he filled in temporarily as secretary and stenographer at the Panhandle office before taking some time off to attend the baseball championship in Chicago in which the hometown White Stockings lost to the St. Louis Browns. He had always loved baseball and he had played some when younger, but by this time his busy schedule prevented him from being anything more than a spectator. The

disappointment of watching his Chicago favorites lose the series was short-lived, as Landis was soon off and running with an entrepreneurial venture and a new foray into politics.[23]

While still essentially sticking to his plan to become a lawyer, he was also eager to begin compiling his fortune. Therefore, in late November 1886, amid much fanfare and publicity, Landis and a partner held the grand opening of a new roller rink. Over four-hundred people attended the opening and skated to the music of a live band while Kenesaw and two employees counted the profits. Nine years earlier, the first rink in Logansport had appeared in response to local demand to join the national craze but, through the early 1880s, several different men failed to make a success of that venture. In 1885, a brand new, five-thousand-dollar rink was built, but this business also failed after an initial burst of popularity. On November 6, 1886, the *Journal* pronounced the fad dead and announced that the rink would probably not open that winter. Two weeks later, however, on his twentieth birthday, an optimistic Landis purchased the business and displayed his powers of persuasion by convincing the city council to allow him to operate for six months without a license. He hoped, that with few indoor amusements to occupy the townspeople during the winter, he could lure patrons by opening the rink for two nights each week and presenting a variety of attractions.[24]

Landis called on a work force of family and friends to prepare the rink, and the small army spent several weeks polishing the floor, overhauling the skates, cleaning the various auxiliary rooms, and improving the heating system. After the successful opening-day crowd, however, attendance began to wane. In response, Kenesaw displayed a flair for showmanship by offering a variety of unusual promotions designed to attract audiences

and skaters. He hosted football and baseball games on skates; a champion bicyclist appeared; carnivals featuring well-known vaudeville acts were presented. Finally, the rink held "polo" matches--a form of hockey on roller skates. These efforts notwithstanding, the number of patrons continued to decline and, after only two months, Landis closed the business. The enterprise failed primarily because the town was too small to support such an endeavor, but also because Landis, the driving force behind it, was away too often to tend to day-to-day affairs. After his initial enthusiasm, he had lost interest when the rink failed to generate immediate wealth. A more patient man might have been able to nurture the business and make it work, but Landis viewed it as a mere diversion to occupy his time during the slow winter months.[25]

Despite the flurry of action in 1886, politics were never far from Landis's thoughts. Still not yet old enough to vote, he had glimpsed the political machinery of the state while working in Indianapolis and he eagerly desired to return to that environment. Something about politics--the excitement of the campaign, the competition, the power, the opportunity to manipulate others--exerted a forceful hold on the ambitious young man and attracted him as did no other potential career. He decided that his first step in this direction should be to demonstrate his usefulness to some candidate for public office. He chose Charles F. Griffin, who was running for Indiana secretary of state, and threw his considerable energy into the effort to get him elected. He gave speeches, distributed literature, and helped coordinate campaign efforts throughout the state. Griffin won and, in January 1887, Landis was called to the state capital to serve as clerk and private secretary to the newly elected secretary of state.[26]

This opportunity brought Landis into contact with Indiana power brokers of both parties and gave him a thorough education in late-nineteenth-century politics. After the election, his skill as a stenographer again served Landis well, for it is doubtful that Griffin would have been able to use him without such a talent. As it was, Kenesaw became right-hand-man to the Secretary, carrying out bureaucratic duties but also serving as personal advisor and accompanying Griffin wherever he went. Moreover, he returned home regularly and discussed the state political situation with his father and his two brothers, Walt and Charlie, who were both heavily involved in politics in their respective towns. In October and November, 1888, in addition to stumping the state for Griffin and other Republican candidates, Landis observed close-hand the operation of a presidential campaign as Benjamin Harrison, a Hoosier and the GOP candidate, had set up his headquarters in Indianapolis. The Landis family originally supported another Indiana man, Walter Q. Gresham, for the presidency, but when Harrison defeated their candidate at the Republican national convention, they quickly switched their allegiance and celebrated Harrison's victory over Grover Cleveland in November.[27]

Amid his political duties, Landis continued to send an occasional news story back to Logansport. While traveling around the state with Griffin, he often covered such events as the opening of a bridge or the dedication of a new soldier's monument, calling himself a free-lance reporter in order to gain interviews. In May 1887, he wrote a piece on a strike in Indianapolis in which the drivers and conductors of the street railway company walked off their jobs in protest over conditions, pay, and treatment by the owners of the transportation line. Landis openly sided with the strikers, attacking the president of the

company and pointing to a lack of competition as the real culprit in the situation. Thus he echoed the concerns of many Americans over the problem of monopolies and once again used his reporter's position as a pulpit from which to broadcast his views.[28]

In terms of labor-management relations, Landis was beginning to sympathize with working people, even supporting them during strikes. He drew the line, however, at any hint of socialism, fearing that such radical politics posed a genuine threat to the American way of life. On the other hand, during his time in Indianapolis, Landis had seen the tremendous political power wielded by railroads and corporations as they successfully used all available means to obtain unfair favors from the legislators. To a mind accustomed to looking at the world in terms of absolutes, Landis, and millions of others from similar backgrounds, saw the corporations as malevolent beings which selfishly sought unlimited profits at the expense of the real working people of the nation. Like reformers and various farming groups across the country, he began to see government regulation as the only possible cure for the excessive greed of these corporate giants.[29]

On November 20, 1887, Landis turned twenty-one and wasted little time in registering to vote, thus satisfying one-half of the requirements to practice law in Indiana. He also secured letters attesting to his "good moral character." Within days of his birthday then, he filed the necessary papers and registered as the youngest lawyer in the state. Although he had only a limited education and had not attended a formal law school, Landis probably grasped the basic principles of the law as well as most other fledgling lawyers of this period. In fact, in February 1888, he was able to write a newspaper story on the legal decisions of Supreme Court Justice John M. Harlan that demonstrated a fair

understanding of appellate law. He admired Harlan and wrote approvingly of his willingness to ignore precedents and take an unpopular stand in the name of justice.[30]

For the rest of the year, he postponed the start of his legal career in order to fulfill his obligation to Griffin and to secure the secretary of state's re-election. In December 1888, with these two tasks successfully completed, he resigned his position and began to solicit legal business. He handled only a few minor cases before concluding that his apprenticeship in the law had not prepared him to be as successful as he hoped to be. He also quickly realized that the life of a small-town lawyer was not for him. While Logansport, Delphi, or Marion might be fine for his brothers, he needed a larger canvas on which to paint in order to gain the attention he believed he deserved. He also recognized that he would never obtain the wealth or political clout that he sought by scraping for jobs representing Indiana farmers. He knew he had intelligence and was willing to work hard, but he also knew that that was not enough. He recognized that the level of success he aspired to was restricted to those lawyers who practiced in large cities like Chicago. In addition, he understood that, increasingly, the path to such positions led first to a formal legal education. Therefore, in 1889, Landis headed to law school.[31]

Notes

1. Pratt, *The Old Crop in Indiana*, 206-07; *LPDJ*, 17 June 1877; 26 September 1877; 12 April 1878; 16 June 1880; 25 March 1882; 18 July 1882; 10 September 1882; 12 September 1882; 7 May 1882; 10 April 1883; 26 April 1883; 8 May 1883; 1 September 1883; 25 October 1883; 13 January 1884; 1 May 1884; 3 May 1884; 33 March 1886.

2. *LPDJ*, 11 January 1877, 20 January 1877, 17 February 1877, 6 July 1878, 14 December 1878, 10 September 1879, 16 April 1881, 25 May 1881, 22 June 1881, 26 August 1881, 2 September 1881, 26 March 1882, 5 May 1882, 11 July 1882, 3 September

1882, 6 October 1882, 19 June 1883, 6 May 1884, 27 April 1885, 14 August 1886, 27 April 1886; Pratt, *The Old Crop in Indiana*, 207. Charles won a modicum of local fame for his Literary Society activities while debating such topics as, "Has the Indian or the Negro received worse treatment?," "Should the city purchase a fire alarm?," and "Is England superior to France?."

3. *LPDJ*, 28 February 1887, 15 March 1887, 20 April 1887, 28 October 1887.

4. *LPDJ*, 10 February 1877, 21 December 1878, 11 January 1879, 21 June 1879, 26 June 1879, 10 May 1881, 8 July 1882, 8 August 1883, 25 March 1884, 7 August 1884, 13 August 1886, 11 October 1886, 14 December 1886, 20 January 1887, 31 August 1887, 12 August 1888; Albert Nelson Marquis, ed., *Who's Who in America* (Chicago: The A.A. Marquis Co.), 1914-15 edition, 1365; *Williams' Cincinnati Directory* (Cincinnati, OH: Williams and Co.), 1889-90 edition, 757, 1890-91 edition, 764.

5. *Logansport Pharos-Tribune*, 15 November 1934; Unidentified genealogy information, KML-CHS, 16-132A; *LPDJ*, 12 March 1877, 22 May 1877, 28 May 1878, 15 June 1878, 31 December 1878, 1 January 1879, 20 May 1879, 22 June 1879, 31 December 1879, 30 April 1880, 13 June 1880, 1 June 1880, 5 June 1881, 6 August 1881, 13 June 1882, 22 July 1882, 1 September 1882, 15 September 1882, 8 October 1882, 31 December 1882, 13 October 1884, 27 March 1886. Neither sister ever married, nor is there any evidence that they received gentlemen callers, although they did assist other Logansport women who entertained callers as part of a New Year's Day tradition. On another interesting note, the two Landis girls lied about their ages to the 1880 census taker, each shaving two years off of her actual age.

6. KML to John T. McCutcheon in "Kenesaw Mountain Landis, Judge," *Appleton's Magazine* October 1907, 420; French, "Kenesaw Mountain Landis," 133; Brougham, "America's Erratic Judge", 9; Fassett A. Cotton, *Education in Indiana: 1793-1934* (Bluffton, IN.: Progress Publishing Co., 1934), 371; Abraham H. Landis to Francis (Frank) Q. Landis, 3 November 1871, KML-CHS, 51-533. This letter indicates that Francis is just beginning school at age sixteen. She moved quickly through the Logansport system and graduated from high school in 1878 at twenty-five. *LPDJ* 15 June 1878.

7. McCutcheon, "Kenesaw Mountain Landis," 420; *LPDJ*, 19 April 1882, 21 February 1883; F.C. Lane, "Baseball's Dictator," *Baseball Magazine* 26 (February 1921) : 414-15.

8. The number of American stenographers and typists increased from 154 in 1870 to 112,364 by 1900. Burton J. Bledstein, *The Culture of Professionalism: The Middle Class and the Development of Higher Education in America* (New York: W.W. Norton and Co., 1976), 1-45; Alba M. Edwards, *Population: Comparative Occupation Statistics of the United States, 1870 to 1940*, cited in Bledstein, 36n; Stuart M. Blumin, *The Emergence of the Middle Class: Social Experience in the American City, 1760-1900* (New York:

Cambridge University Press, 1989), 67-68, 107-09, 136-37, 191, 296. In regard to the respectability of workers, Blumin sees a change in attitudes taking place in the earlier Jacksonian Era. In this transition, white collar workers, possessing a greater chance to move up into the shop-owner or entrepreneurial class, began to look down upon men who worked with their hands as being crude, dirty, and uneducated. He argues that these attitudes remained prevalent to about the turn of the century when boundaries between the classes began to blur as the status of skilled workers improved and the number of white-collar occupations exploded. As more women and immigrants entered these jobs, the status of the lower-level white-collar workers declined along with their salaries.

9. *LPDJ*, 26 April 1882, 21 February 1883, 18 March 1883.

10. "Sherman" to KML, 27 January 1921, KML-CHS, no box, file "1921-22"; John H. Landis in *Cincinnati Post*, 28 June 1907.

11. McCutcheon, "Kenesaw Mountain Landis," 420; *LPDJ*, 27 May 1883.

12. *LPDJ*, 2 June 1883, 11 July 1883, 21 September 1883, 22 September 1883; Lane, "Baseball's Dictator," 415. J.G. Taylor Spink, in his biography of Landis, claims that "Kenesaw won a state reputation as a bicycle rider," but no evidence of this exists. Spink, *Judge Landis*, 6.

13. *LPDJ*, 27 August 1880, 27 May 1883, 8 July 1886; Charles B. Landis to Frank O. Lowden (Hereafter referred to as "FOL"), 24 May 1905, FOL Papers, University of Chicago (Hereafter referred to as "FOL-UC"); *Chicago Examiner*, 11 August 1907; FOL to Winifred Reed Landis, 13 June 1935, FOL-UC; KML to Roy Landis Roach, 7 April 1917, KML-CHS, 81-545. Landis did not begin to use his full name on a regular basis until after he was appointed to the federal bench and Chicago reporters became attracted to the colorful nature of his odd moniker.

14. Kramer, *Voices in the Valley*, 73.

15. *LPDJ*, 14 June 1884, 16 June 1884, 9 July 1884, 30 July 1884, 1 September 1884, 24 September 1884, 22 October 1884, 24 October 1884. Landis' efforts in this campaign were not exceptional, but in fact fairly typical for an enthusiastic partisan supporter of that era. For a detailed discussion of the campaigning tactics of the 1880s and the impact of these maneuvers in generating record voter turnouts, see Michael E. McGerr, *The Decline of Popular Politics: The American North, 1865-1928* (New York: Oxford University Press, 1986).

16. *LPDJ*, 5 April 1884, 8 May 1885, 4 July 1885, 1 September 1885.

17. *LPDJ*, 22, 28 January 1886; John H. Landis to *Cincinnati Post*, 28 June 1907. The couple who had been married for fifty years was John Kumler, Mary Landis' uncle, and

Abraham's sister, who's name did not appear in the newspaper story. Thus, the Kumler-Landis family chain had more than one connecting link.

The Indiana State Constitution of 1851 stipulated that "Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice." Since only white males above the age of twenty-one were eligible to vote in 1851, the suffrage provision was intended to restrict women and blacks from practicing law in the state. *Indiana Constitution* (1851), art. 7, sec. 21.

18. *LPDJ*, 22 January 1886, 28 January 1886, 2 February 1886, 29 May 1887, 23 November 1887, 29 February 1888; John H. Landis to *Cincinnati Post*, 28 June 1907.

19. *LPDJ*, 2 February 1886; McCutcheon, "Kenesaw Mountain Landis," 420-21; Ray Ginger, *Altgeld's America*, 238.

20. *LPDJ*, 7 February 1886, 4 May 1886, 6 May 1886; KML to Senator Frank B. Kellogg, 30 March 1920, KML-CHS, 82-553.

21. *LPDJ*, 27 May 1886, 28 May 1886.

22. *LPDJ*, 8 July 1886, 10 July 1886.

23. *LPDJ*, 10 June 1886, 15 June 1886, 17 July 1886, 28 July 1886, 18 September 1886, 12 October 1886, 20 October 1886. Some writers have tried to make much more out of his early interest in baseball than was actually true. For instance, J.G. Taylor Spink wrote that Landis played semi-pro ball and even managed his own team at seventeen. If this is true, it never made the Logansport newspapers during a time when *everything* about the Landis family found its way into print. See Spink, *Judge Landis*, 5-7.

24. *LPDJ*, 16 October 1877, 15 February 1882, 22 February 1882, 10 March 1882, 12 March 1882, 30 March 1882, 12 April 1882, 4 January 1883, 17 January 1883, 9 February 1883, 7 December 1883, 30 March 1885, 6 November 1886, 18 November 1886, 19 November 1886, 23 November 1886, 29 November 1886, 30 November 1886.

25. *LPDJ*, 24 November 1886, 25 November 1886, 27 November 1886, 1 December 1886, 3 December 1886, 4 December 1886, 7 December 1886, 10 December 1886, 13 December 1886, 16 December 1886, 21 December 1886, 23 December 1886, 28 December 1886, 30 December 1886, 31 December 1886, 3 January 1887, 8 January 1887, 20 January 1887, 28 January 1887, 30 January 1887. Before purchasing the business, Landis regularly attended skating events at the rink, at one carnival even performing a comic satire on skates with several friends. *LPDJ*, 29 August 1885, 21 November 1885. The "polo" contests came at the tail end of yet another of the sporting fads that proliferated in the 1880s. During the winter of 1885-86, Logansport fielded a team in a semi-professional polo league, with games often attracting hundreds of spectators. *LPDJ*, 16 December 1885, 13 January 1886, 11 February 1886, 8 March 1886.

26. McCutcheon, "Kenesaw Mountain Landis," 421; *LPDJ*, 20 November 1886, 17 January 1887.

27. *LPDJ*, 21 February 1887, 7 March 1887, 27 March 1887, 3 April 1887, 3 July 1887, 13 July 1887, 25 December 1887, 13 May 1888, 26 June 1888, 11 November 1888.

28. *LPDJ*, 14 July 1887, 22 May, 1888.

29. Emma Lou Thornbrough, *Indiana in the Civil War, 1850-1880*, 318, 354-61; Kramer, *Voices in the Valley*, 81; Solon J. Buck, *The Granger Movement* (Cambridge, Mass.: Harvard University Press, 1933), 74.

30. *LPDJ*, 23 November 1887, 29 February 1888.

31. *LPDJ*, 13 December 1888; McCutcheon, *Kenesaw Mountain Landis*, 421.

CHAPTER 3
"THE BEST FRIEND I EVER HAD"

Between 1889 and 1892, Landis laid the groundwork for his future success. He completed law school and began practicing law in Chicago, the most dynamic city of the Middle West. He also demonstrated a greater willingness to temper his stubbornness and compromise on occasion, if doing so would help advance his career. In the meantime, he developed a close relationship with Walter Q. Gresham, a federal judge who had a profound and lasting impact on Landis' life. Gresham, raised on the Indiana frontier, saw the world in terms of simple principles and, much like the people of Logansport, dealt with problems by reducing great issues to levels which could be grasped easily. In this regard, he helped to reinforce lessons that Landis had already learned. Gresham also, however, became a powerful role model for the young lawyer and started him thinking in terms of one day sitting on the federal bench himself.

In early 1893, though, Landis was still a frustrated young lawyer struggling desperately to get ahead. Then, at the depths of his fortunes, his association with Gresham began to pay real dividends. Landis suddenly found himself pulled out of the career-related mire in Chicago and thrust into the innermost circles of power in Washington. With all of his preparation and all of his ambition, the first great opportunity for Landis arrived because he was in the right place at the right time.

Landis chose to enter the legal profession just as the rules were changing. The requirements for admission to the bar in the United States have been modified periodically, subject to shifting ideological currents and social pressures. Before 1860, only a handful of lawyers received formal legal training. Most, like Landis, possessed only a grammar-school education and learned their law during an apprenticeship of about two years under an established attorney. In the 1860s, moreover, few professional standards for lawyers existed. Most states did not require a specific period of law study, and even those prospective attorneys who worked with established lawyers often did little more than serve as clerks, running errands and doing the busy work of the law office. Gradually, the profession began to raise standards and overthrow the democratic inclinations of the Jacksonian period. Between 1870 and 1900, individual states started tightening requirements for practicing law and expecting professional education with a formal period of study or apprenticeship.[1]

A few years earlier, then, Landis would have been able to achieve a reasonable degree of success by simply reading with a reputable attorney. By 1889, however, a young lawyer who wanted to stand out, who wanted reasonable prospects for social and economic advancement, and who wanted to enter the professional middle class, needed to attend a respected law school and earn a degree. Landis wanted all of these things and more. It was his unusual experience to have become a lawyer by both the traditional and the modern methods.[2]

Landis never believed, however, that formal legal training produced better lawyers or judges. Years later, he wrote to a cousin, "I do not think as much of law schools as

some people do. If you could get into a good law office . . . and read it is my opinion that the same industry would avail you as much as if you should put in your time in a law school." Landis would go to school and put in his time, but only because he thought further education would enhance his prestige and his chances of attracting wealthy clients--not because he believed it would improve his legal skills.[3]

In January 1889, Landis had moved from Indianapolis to Marion, Indiana to open his first law office. Optimistic about his chances of success, he boarded with his brother Walter and obtained his license to practice in the Cass County circuit court. By spring, however, the few cases that had come his way had not paid enough to cover his bills, and he was forced to take a job in his old occupation as a court reporter in nearby Grant County. This setback led him to reevaluate his plans. He decided that a big city such as Cincinnati or Chicago offered greater opportunities than the small towns of Indiana. With this thought in mind, he enrolled for the fall term at the Cincinnati Law School.[4]

The "Law Department of Cincinnati College," as it was officially known, had much to offer Landis. Located in a city with a population of over 300,000, the law school had opened its doors in 1833 as only the fourth United States institution designed specifically for legal studies. It also offered a liberal admissions policy, as did most law schools of that time, requiring no high school or college degree, no examination, and no previous legal training. Entering students were advised, but not required, to read Walker's *Introduction to Law*, Blackstone's *Commentaries*, and Kent's *Commentaries* before coming to the school. Landis had already familiarized himself with these works and was further

attracted by the fact that the school held night classes, which enabled him to work during the day in order to pay his expenses.[5]

He entered the school as a "junior," which meant he was in the first year of a two year program, and classes met on week nights from October 15 to May 15. Like almost all other law schools before the 1890s, Cincinnati adhered to the lecture method of teaching. In this mode of legal education, instructors, who were usually lawyers teaching in their free time, gave daily lectures while the students took notes. The next day, each student was expected to apply knowledge acquired from the notes and assigned reading to whatever hypothetical cases the examiner might present. In such a way, Landis learned the principles of English common law, the system of laws based on precedents set by earlier court decisions and on the doctrines implicit in those decisions. Quickly falling into a routine, he worked his way through courses on elementary law, contracts, mercantile law, and law of real property.[6]

Like many others of his day, Landis believed that the English common law, upon which American jurisprudence was based, had become too complicated and unwieldy to administer true justice. A bit of an optimist, he saw man as inherently good and he thought that a simple, instinctive law based on kindness and courtesy would serve America more effectively. In the late 1880s, many American idealists shared this belief. The utopian society of Edward Bellamy's popular novel *Looking Backward*, published in 1888, contained no lawyers, relying instead on "fundamental principles" which required no argument or interpretation. In the late 1880s, numerous clubs of "Nationalists," who patterned themselves after the ideals expressed in Bellamy's book, sprang up around the

nation. In addition, the most dynamic labor organization of the period, the Knights of Labor, excluded only saloonkeepers, gamblers, bankers, and lawyers, seeing these professions as detrimental to a democratic republic. Landis, however, was no reformer, and his desire to succeed in life easily outweighed his concerns over these issues. In fact, he found that learning the tenets of common law came easy to him as the logic involved was similar to the process he had always used. He quickly mastered the art of discovering which precedents of common law applied to the case at hand by reasoning syllogistically from the general to the specific.[7]

In addition to his studies, Landis held down a full-time job. Once again, the Landis-family connections came in handy, as a former business partner of his uncle had recently been appointed Post Office Inspector for a three-state area, with his headquarters in the U.S. Government Building located a few blocks from the Cincinnati Law School. This friend hired Landis to a job which bore the dual titles "Chief Clerk" and "Representing Inspector." Landis stayed at this position for more than a year. Then, in the summer of 1890, he moved again, this time to Chicago.[8]

The Illinois metropolis had always held a special appeal for Landis, as it did for so many other ambitious young people. In 1890, no city in the world could match its rapid growth, its vibrancy, and its promise for the future. Chicago was the keystone of the nation's interior, connecting the plains and prairies of the Middle West, the forests of the Great Lakes area, the vast lands between the Mississippi and the Rockies to each other and the rest of the world. Entrepreneurs and laborers, evangelists and religious skeptics, confidence men and intellectuals, farmers and immigrants, criminals and reformers,

idealists and cynics all flocked to Chicago, believing that the city offered them something that no other place possessed. In the 1830s, Chicago rose dramatically from the swampy land on Lake Michigan, built itself into a great city, burned down in 1871, and rose again from the ashes. In a thirty-year period, its population had increased tenfold to over one million by 1890. In its brief history, such men as Cyrus McCormick, Marshall Field, Gustavus F. Swift, Philip D. Armour, George Pullman, and Potter Palmer had earned enormous fortunes. The very name "Chicago" had become, in the words of novelist Henry Blake Fuller, "a shibboleth" which brought to mind images of success, freedom, money, adventure, and romance.[9]

Chicago attracted more than those seeking personal wealth. In the 1880s and 1890s, numerous people moved from farms and rural villages to the Windy City because it provided a fertile and receptive environment in which new ideas might be more readily accepted. Thus, John Dewey and William Rainey Harper in education, Clarence Darrow in law, Jane Addams, Florence Kelley, and Julia Lathrop in social work, Louis Sullivan and Frank Lloyd Wright in architecture, Eugene V. Debs in labor activism, Theodore Thomas in music, and Thorstein Veblen in cultural criticism all went to Chicago to experiment and implement new philosophies. Theodore Dreiser, Edgar Lee Masters, Carl Sandburg, Sherwood Anderson, Frank Norris, and George Ade moved there to draw on the energy and the people for inspiration in their writing, with many of them using Chicago as an important element in a new, realistic, urban-based literature.[10]

Landis shared the dreams and aspirations of these people. He hoped to become rich and famous, certainly; his personal ambition matched of that of any of Chicago's energetic

newcomers. He also, however, possessed a literary and philosophical side that he rarely displayed. When relaxing, he gravitated toward saloons where he could enjoy a drink and conversation with newspapermen, many of whom carried a blossoming novel or poem tucked into his back pocket. He loved to discuss literature and new ideas, as well as politics and the need for reform, with such men. In addition, his aversion to formal education did not mean that he eschewed good books. He became a voracious reader who enjoyed biographies and histories, especially when the subject of those books was his personal hero, Abraham Lincoln. Chicago offered opportunities and cultural advantages that he could never find in Logansport or Marion, Indiana. Thus, the magnetic appeal of Chicago pulled on Landis with the same force that it exerted on so many other small-town men and women. He had visited the city many times in his life and had even lived there for a short time. Once it was in his blood, he had always dreamed of living there permanently.[11]

In 1890, he decided that the time was right. Landis had done well in his studies at Cincinnati. His job in the post office had also allowed him to save up enough money to move to Chicago and to pay for a year's tuition at the Union College of Law, which was associated with Northwestern University. Walter Quintin Gresham, an acquaintance from his days in Indianapolis, encouraged him to make this move. Gresham, then a U.S. Circuit Court Judge in Chicago, became a patron of Landis by allowing the young student to use his office and law library for his studies. In Landis, the judge saw a man with shrewdness, down-home charm, and political instincts similar to his own. Landis became

his protege, picking up rent money and invaluable legal experience by serving part time as a clerk and secretary to Gresham.[12]

In Union College Landis had selected another highly respected law school. Like Cincinnati, it had fairly lax entrance requirements, and graduates were admitted directly to the Illinois bar, features that attracted Landis as much as did the recommendation of the school by Gresham, who occasionally gave guest lectures at Union. In 1859, Henry Booth, one of the most prominent lawyers and judges in the Midwest, had founded Union as the first law school in Chicago. When Landis enrolled in the school in September 1890, Booth was entering the final year of his career as dean and instructor at Union. Near the end of the school year, as examinations approached, Landis went to Booth and confessed to being weak in pleading and real property, classes taught personally by the judge. "Young man," replied Booth sternly, "am I to understand that you are under the impression that you are imparting to me exclusive information?" Despite this reproach, Landis performed well at Union and graduated with his class in June 1891.[13]

He received none of the top prizes but, of the sixty graduates, he was one of the few asked to give an "oration" at the commencement exercises. He chose as his topic "The Conservative Man," and in this speech he brought together many of the ideas, beliefs, and prejudices developed in adolescence and gradually adapted into his own personal socio-political creed. Landis exhorted the "common conservative man" as "the bone and sinew of society" who defends that society against the rash impatience of "radical men, extremists, agitators." He also warned against "the danger that threatens from the wholesale importation of the ignorant and vicious Hun and the cowardly and revengeful

Sicilian," This said, he added that "the world is better today than it has ever been before" because "there is less bigotry, less ignorance, less superstition, less prejudice," apparently without any sense that his slurs toward immigrants might be perceived as bigoted and prejudiced. He concluded by praising political reformers such as Ignatius Donnelley, the Populist, and Henry George, the single-taxer, who expressed originality and independence in thought, and who would be "accorded a patient hearing" before being judged by the "splendid conservative army" which was "advancing, slowly, it may seem, but as surely as the march of destiny."[14]

These opinions were remarkably similar to those expressed by Charles and John Landis in earlier graduation speeches and point to the strong influence that the views of their father had on the boys. In allowing room for new ideas, such as those from Donnelley and George, however, Landis demonstrated that he was thinking on his own and growing away from his father's tutelage to a certain extent.[15]

In characterizing Italians and Germans as undesirables, moreover, and focusing his most caustic criticism on those groups, Landis was simply playing to his listeners. Between 1880 and 1890, more than five million foreigners had flooded into the United States to fill the growing demand for industrial labor. In Chicago, the number of factories had tripled in the 1880s, attracting hundreds of thousands of immigrant workers, and the city was the site of frequent labor-related violence. By 1890, 68% of its population was foreign-born, and another 10% were children of immigrants. Natives resented the newcomers, depicting them as lazy and dirty breeders of political dissent. Those seeking easy solutions to the bewildering array of new problems wrought by rapid industrialization

began discussing immigration restriction as a panacea for all of the nation's ills. Of all immigrant groups, moreover, Italians and Germans carried the greatest stigma for an audience of middle-class, professional Chicagoans. Thus, Landis, who knew how to read an audience, was simply drawing on current apprehensions and he recognized that his listeners were only too willing to add "radical" and "criminal" to their list of adjectives used to stereotype entire nationalities.[16]

After giving his speech, Landis attended a banquet of the Alumni Association, given at the Palmer House in honor of the new graduates. Among others, U.S. Supreme Court Justice John Marshall Harlan spoke to an audience of 132 lawyers. School officials took the opportunity to announce some important changes in the structure of the school. Beginning that fall, the name would be changed from "Union College of Law" to "Northwestern University Law School," and the official ties to Northwestern University would be made complete. In addition, Judge Henry W. Blodgett was named to replace Booth as Dean and, in an announcement of considerably less interest to most of those in attendance, a recent graduate, Landis, was added to the faculty as an assistant instructor. While not the top student at the school, Landis brought other attributes to the classroom that most recent law-school graduates could not match. He had already, albeit briefly, worked as a lawyer, he was comfortable speaking in front of an audience, and his time spent as a court reporter and as clerk for a circuit court judge gave him invaluable experience upon which to draw for lectures.[17]

Upon graduation, Landis was not exactly sure of his plans for the immediate future. He wanted to begin his practice, but had no desire to work in a law firm where he would

be compelled to obey the orders of the senior partners. He hoped to open his own office where he could pursue the cases of his choice and operate with a free hand, answerable only to himself. This aspiration, however, would be difficult to achieve for a young man just beginning a career without a reputation or legal contacts. Instead, he accepted a compromise. He agreed to teach at Northwestern for a year while continuing to serve as Gresham's secretary and taking a few legal cases as they came his way. This arrangement gave him an opportunity to start slowly and build a practice without worrying about the necessities of earning a living and paying for office space. Most important, the association with a United States Circuit Court judge could only augment his legal knowledge, reputation, and prospects for the future.[18]

By the time Landis began working for him in 1890, Gresham was already a national political figure. During the course of the next five years he became a surrogate father, mentor, advisor, and the man Landis called, "the best friend I ever had." In many ways, his early life and political views paralleled those of Abraham Landis. A fellow Hoosier, born in 1832 in southern Indiana, Gresham became involved in Whig, Know-Nothing, and Republican party politics at an early age, winning election to the Indiana legislature at twenty-eight and enlisting in the Union army in 1861. His military service enhanced his reputation back home as he rapidly rose from private to brigadier general in command of an entire division (seven thousand men), before being seriously wounded outside Atlanta. After the war he lost two races for United States Congress but gained numerous political allies in the process. He also, however, lost his confidence--if not his

ambition--and refused thenceforth to aggressively pursue offices, preferring instead to accept appointed positions or to wait for others to draft him into a particular race.[19]

In the age of patronage politics, appointments often went to men of Gresham's stature, and he accepted federal positions as a district judge in 1869, postmaster general in 1883, secretary of the treasury in 1884, and circuit court judge that same year. In addition to the judgeships and cabinet posts, he came close to winning the vice-presidential nomination in 1884 and the presidential nod four years later. In both cases, his unwillingness to campaign openly for the office stifled his chances. During the course of his career he had the misfortune to become the political enemy of one of the most powerful Republicans in the nation, Benjamin Harrison, also from Indiana. As Harrison's star rose, he repeatedly stood in Gresham's path to higher office, and, as president in 1889, Harrison refused to appoint the judge to fill a Supreme Court vacancy that seemed made-to-order for Gresham.[20]

Gresham represented all that the impressionable Landis aspired to be. A nationally known figure who managed to use his judicial bench to stand above the political fray, Gresham's was mentioned whenever a high national post was under consideration. Tall in stature, Gresham even *looked* like a statesman, with broad shoulders, a full beard, and a thick head of hair which had turned white at an early age. He was unpretentious, conducting his courtroom in a casual manner, displayed a playful sense of humor when among those close to him, and made strong, enduring friendships. Although he could not quite afford it, Gresham also lived his life as Landis hoped to, residing in a fine house on

fashionable Prairie Avenue in Chicago, and he mingled with some of the most socially prominent men in the city.[21]

The Landis family had supported Gresham through several of his political battles. Abraham had admired the general's war record, as well as his character and political views, and he and the boys had worked hard in an attempt to secure his 1888 presidential nomination. Gresham knew and liked Charles and Walter for their journalistic efforts on his behalf, and, as the two young men emerged as Republican leaders in their part of the state, they had occasionally discussed strategy with the judge. Kenesaw had crossed paths with Gresham several times during the 1880s. While working for the Panhandle Railroad in Indianapolis, as a court stenographer, and as a newspaper reporter, Landis had become casually acquainted with the judge, but it was his political activities that had caught Gresham's attention. In his role as secretary and campaigner for Charles Griffin, Landis proved difficult to ignore for those involved with Indiana politics, and, while stumping the state for the Secretary of State, he also made several speeches on behalf of Gresham. In addition, Gresham's closest friend in the Logansport area was Judge D. P. Baldwin who first introduced Landis to the intricacies of the law. The combined effect of these chance meetings and common interests was that Gresham came to esteem the brash and precocious young man and, in 1890, invited Kenesaw to move to Chicago to work in his office while finishing his legal studies. Landis jumped at the chance and, for the next five years, the two men were rarely separated.[22]

While working closely with Landis, Judge Gresham imparted his political wisdom, social and economic views, and judicial philosophy. Like Landis, he belonged to no

organized church, and even toyed with agnosticism, but believed strongly in a set of moral precepts that governed people's lives and could be applied to any situation. Looking back longingly to America's earlier republican traditions, he despised corruption, the avaricious concentration of wealth, and politicians who sought public office for their own personal gain. Guided by the notion of civic virtue, he felt a profound sense of duty, but refused to publicly seek an office until it was nearly forced upon him. By 1890, he was disenchanted with the Republican Party, which he saw as a corrupt puppet of the trusts and monopolies, and he feared the Democrats, whom he believed represented the most dangerous classes of society. A man without a party, he still sought reform and a return to first principles, or a closer adherence to the ideals he believed had earlier guided his country. He taught these precepts to Landis by both his words and his deeds while the young law student eagerly absorbed it all and incorporated a large share of Gresham's ideology into his own.[23]

On the bench, Gresham strove for equal justice for the rich and the poor alike, and was called a "fearless judge" for his political impartiality. In 1877, his apprehension over an outbreak of labor violence led him to use contempt charges to effectively outlaw strikes against railroads in receivership. Later, however, he increasingly sympathized with the working man and, in 1886, he demonstrated measured restraint when pressured by the railway companies to use the federal courts against striking workers. Further, his decisions on corporations often ran counter to the contemporary conservative trend of judicial opinion. Whenever doubts existed pertaining to the powers of corporations, he

generally decided in favor of the public, believing that the people were more important than the greedy interests of business.[24]

During this period, Landis again began to reevaluate his plans for the future. He found Gresham's power and position so attractive that he started thinking that he himself might achieve such recognition by eschewing the pursuit of elective office and laying the groundwork for a career as a judge. Landis relished the idea of being in command of his own courtroom, with a lifetime appointment, answerable to no one save his own conscience. He further recognized that a position on the bench did not necessarily disqualify a man from consideration for a high national office, as Gresham's career had certainly proven. From 1891 on, Landis strove to prepare himself to be a judge and worked behind the scenes to make such an appointment possible.[25]

For the next year he concentrated more on making himself indispensable to Gresham than he did on teaching, which he generally regarded as a temporary diversion and an opportunity to make important professional contacts. In addition to normal secretarial duties, Landis wrote up the legal opinions that Gresham dictated and the two discussed at length the proper wording of these texts. The judge believed in an economy of words when formulating these opinions, later saying that "On the bench a man learns to be terse. . . . An experience on the bench is very apt to impair the imagination."[26]

During his apprenticeship with Gresham, Landis adopted this writing style along with other attitudes toward judicial behavior. The older man believed that a judge should appear somewhat detached from the rest of the world so that no hint of favoritism or conflict of interest could be connected with him. Therefore he tried--sometimes

unsuccessfully--to refrain from direct political participation and from business interests that might someday be discussed in his courtroom. He also shied away from interviews, not wanting to reveal any more of his personal life than necessary. Thus, he idealistically wished it to appear that all of his judicial decisions were based purely upon their legal merit and not upon some other biases or cultural baggage that he might have carried into the courtroom. Landis observed all of these sentiments and stored the information away for future use. He regarded Gresham as the epitome of a good and fair jurist and he believed that he need look no further for an ideal model upon which to pattern his own career.[27]

While learning from Gresham, Landis also furthered his education through his association with the Northwestern Law School. The school boasted the finest law faculty in Chicago and Landis assisted and worked with many of these men. Moreover, prominent guest speakers, such as Gresham, often gave lectures on the law. In spring 1892, Supreme Court Justice Harlan gave a fifteen-lecture series on Constitutional law which Landis attended along with many other notables of the Chicago legal community. Thus, these combined experiences meant that Landis' legal studies continued informally for another full year following his graduation from law school.[28]

With a full load of teaching and secretarial duties, Landis could not accept any cases of his own until late in the school year. Beginning in March 1892, he took on a few small cases, with his number of clients increasing after the spring semester. In most of these, Landis represented individuals who merely needed legal papers to formalize a contract. Divorces, wills, articles of partnership, and collection of past-due bills made up

the bulk of this work. While he did not make much money from these efforts, by July he stated "this is a pretty good time of year to practice law," opened an office, and paid eighty dollars to have bookshelves installed. He had decided that his teaching career was at an end and, finally, his life as a lawyer had begun.[29]

By the summer of 1892, his designs for a political career had also been altered. He asserted, "I want no office. . . . My only ambition is to successfully practice law." Still, politics was in his blood, and he worked hard to secure his brother's nomination for congress, albeit from long distance and behind the scenes. Charles Landis, eight years older than Kenesaw, had used his newspaper in Delphi to build a solid following and, as early as 1890, had been mentioned as a congressional candidate. Two years later, he made his first serious attempt at winning the Republican nomination, and Kenesaw, with his experience and knowledge of Indiana politics, served as campaign advisor when the family gathered in Logansport and in letters from Chicago. Charlie failed to win this nomination, but Kenesaw saw this as a blessing. In a detailed analysis of the district, he characterized the race as impossible to win, as the area had experienced a recent influx of "common laborers" who could be expected to vote Democratic. Thus, he argued, "Gus" had saved considerable campaign expenses and he had not been politically scarred.[30]

Despite his efforts on his brother's behalf, Landis was having grave doubts about his own political affiliation as the presidential race moved into high gear. During his time with Gresham, he had developed a more critical political viewpoint which had weakened his party loyalty. In May, Landis wrote a relative that he would not be attending the GOP convention in Minneapolis with Charles, as the "business is a fraud." A few weeks later,

in a long letter to his mother, he explained his changing political beliefs. He intended this letter for his entire family, wanting them to understand the reasons for his conversion, writing, "I know it will go hard with the folks at home to admit that there is a Democrat in the family." He added that "a man holding my opinions on political matters who would this fall support the Republican ticket is a worse man than if he would engage in open rebellion." He even hinted that, "should the Omaha Convention prove to be in the hands of prudent men," he might vote for the Populists.[31]

Landis then spelled out the reasons for his defection, sounding much like a religious convert defending himself from charges of heresy. He cited the historical examples of Andrew Jackson and Stephen Douglas as loyal Democrats who worked hard to preserve the Union, and pointed to contemporary Republicans such as his old boss Charles Griffin and President Benjamin Harrison as hypocritical politicians. For Landis, the sorest point of dispute was that the Republicans, with "absolute control" of the government, had continued to ignore the plight of Southern blacks while simultaneously accusing the Democrats of "suppressing the Negro vote." He concluded this impassioned argument by contending that, "inasmuch as the Republican Party is either too indifferent or too cowardly" to deal with "the nigger question," "it would seem to be a patriotic duty to turn the rascals out."[32]

As in his graduation speech, Landis' words embodied many of the apparent contradictions of the day. In the earlier address, he spoke disparagingly of entire nationalities (specifically, Germans and Italians) while at the same time asserting that there was less prejudice and bigotry in the United States than there had been in the past. Then,

in this letter to his family, he expressed a desire to see more done for blacks, yet repeatedly referred to African-Americans as "niggers." Surprisingly, Landis himself saw no inconsistency with such positions. Somewhat paternalistic, he like many other reform-minded persons of his era, believed he could call for assistance to specific groups of people while still regarding those groups as inferior to native-born, white Americans. Racial biases, ethnic slurs, and a psuedo-Darwinian belief in the superiority of the dominant race seemed second nature to Landis and many others of a similar background. At the same time, however, his concern for blacks was sincere. Throughout his life, he was able to make such distinctions in his mind; he could make broad generalizations pertaining to a large group while still believing himself to be fair-minded when judging individuals of that group.

Though treatment of African-Americans was the deciding factor for Landis in jumping the Republican ship in 1892, Gresham was more interested in the tariff. Judge Gresham saw the McKinley Tariff of 1890 as putting an unfair burden on the working people of the United States, raising prices while making rich industrialists even wealthier. Greatly concerned with the inequitable distribution of wealth, Gresham saw the country moving toward a crisis and began speaking out against the corruption of the Harrison administration and in favor of reform. In June, when the Republican convention re-nominated Harrison and supported the McKinley Tariff, Gresham's fate was set. For years he had stood at the edge of political independence, but after the convention, he broke completely with the Republicans.[33]

The new People's Party, or Populists, shopping for a nationally known figure to lead their ticket, sent feelers out to Gresham. Its leaders were attracted by his court decisions on labor, his opposition to the tariff, and his castigations of the unprincipled rich. Gresham flirted back, with Landis occasionally acting as his intermediary. On Gresham's behalf, Landis wrote the secretary-treasurer of the Knights of Labor, "He is not unfriendly to the People's Party." Still, when decisive action could have brought him the Populist nomination, Gresham wavered and backed away from the third party movement.[34]

By August, Gresham and Landis both decided to vote for the Democrat, Grover Cleveland. Cleveland offered no revolutionary plan for the salvation of the United States, and Gresham himself had only vague ideas about what sorts of reforms were necessary to bring about a more equitable distribution of wealth in the country. But the judge believed that Cleveland was "an honest, courageous, patriotic man," and Gresham favored the lower tariff that the Democrats proposed. Only reluctantly did he make a public statement endorsing Cleveland, but he and most political observers saw the desertion of the Republicans as political suicide. Landis followed his mentor into the Cleveland camp, a move which was a combination of political opportunism, loyalty to his prominent boss, and a strong dissatisfaction with the GOP. For him, the 1892 election was less a political epiphany than a case of playing out the hand he had dealt himself. Undoubtedly, he carefully calculated the costs and benefits that switching parties would have for his future career. Finally, though, he decided that he had hitched his wagon to Gresham and he was prepared to follow him to hell or, even worse as his family perceived it, into the Democratic party.[35]

In late August, after an extended vacation which left him well rested and with his ambitions recharged, Landis returned to work. That fall, however, did not see any dramatic improvement in his situation, as he was still serving as secretary to Gresham and struggling to make ends meet in the law business. January 1893 marked a low point in his early career. He expressed his futility to a friend, writing, "I have succeeded in getting mixed up with more hopeless cases than any other man who has ever attempted to gain a foothold in the profession." That same month he also saw another of his aspirations go literally up in smoke. The Calumet Club, a Chicago landmark and haven for the city's elite men since 1878, burned to the ground while Landis watched from across the street. He had long hoped to someday rub elbows at the club with such men as Philip D. Armour, Marshall Field, and Levi Z. Leiter, and lamented "Although I have not reached that point where I can occupy a front seat, still I insist on being classed among the mourners." If Landis' fortunes ebbed in January, however, they also began a sudden, upward swing that same month.[36]

In late January, 1893, President-Elect Grover Cleveland invited Gresham to join his cabinet as secretary of state. The move surprised everyone and did not occur until the position had been turned down by several others. Cleveland and his advisors genuinely respected Gresham, but they also carefully weighed the political consequences of such an appointment. Some of the party faithful believed that the position should go to a more-deserving, lifelong Democrat and not to a recent convert. Others, including Cleveland, saw the 1892 election as the start of a realignment of the parties and hoped that the naming

of Gresham would help solidify the allegiance of other former Republicans who had declared their political independence by siding with the Democrats.[37]

Gresham himself held misgivings about accepting the post. Friends and family tried to convince him to turn it down, arguing that it would give his enemies evidence with which to argue that he and Cleveland had earlier arranged a political deal in which Gresham traded his support for the promise of a cabinet position. He was also apprehensive about his ability to work smoothly within a Democratic administration after nearly forty years as a Republican. Further, he had almost no experience in the field of foreign affairs. He declined the post once, but, after much pleading and cajoling, he was persuaded to accept, convinced that his views were essentially in accord with those of Cleveland.[38]

When building his personal staff of one person, Gresham looked no further than Landis. For more than two years, Landis had worked closely with the judge, and the two men had established an easy rapport, as well as an efficient working relationship. Their political views coincided almost to the letter, and Landis strongly supported the limited reforms that Gresham espoused. In addition, the judge needed a young man of Landis' energy in order to accomplish all that he would be asked to do in the department of state. As for Landis, his mind raced at the mere thought of the tremendous opportunity placed before him. Living in Washington; making better contacts every day than he could make in a month in Chicago; operating within the president's inner circle; working with Gresham and the other members of the cabinet as they formulated policies that would determine the future direction of the United States. From the moment Gresham asked

Landis to join him in the Capitol, the young lawyer began to make arrangements to close his office. Unlike Gresham, he did not have to be asked twice.

Notes

1. James J. Robinson, "Admission to the Bar," 210-12, 215-17; Bernard C. Gavit, "Indiana's Constitution and the Problem of Admission to the Bar," *American Bar Association Journal* 16 (1930) : 596-601; Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill: University of North Carolina Press, 1983), 9, 18 (n. 69), 19 (n. 70), 24-25, 30, 75, 92-93; Kermit Hall, *The Magic Mirror: Law in American History* (New York: Oxford University Press, 1989), 211-12, 218; Hall, "Children of the Cabins: The Lower Federal Judiciary, Modernization, and the Political Culture, 1789-1899," *Northwestern University Law Review*, 75 (1980) : 452-53; Bledstein, *Culture of Professionalism*, ix-xi, 33-39, 80-92, 184-91. In the early years of the United States, the law was primarily the domain of a wealthy, well-educated elite. Beginning in the 1830s, however, Andrew Jackson and his followers spearheaded a movement toward a greater democratization of all phases of American life, including law. In Landis's Indiana for instance, delegates to a constitutional convention in 1850 were influenced by demands that the law be reformed and simplified to such a degree that all men could understand and practice law on their own behalf. Voters in the state thus hoped the new constitution would limit the power of courts and lawyers by demystifying the legal process. This plan never fully materialized, but the legal profession was made accessible to virtually all white males and, by 1894 one in every 348 persons in Indiana was licensed to practice law. This ratio was comparable to that in Ohio, Illinois, and Iowa at that time.

As these sources further explain, these new restrictions were part of a general movement toward standardization and professionalization across America in the last third of the nineteenth century. Members of a new, professional middle class--lawyers included--sought a more structured world, and higher education seemed to offer a way of stratifying society and restricting admission into their particular domain. Therefore bar associations increasingly demanded that new lawyers attend accredited law schools for a fixed period of study. Stevens (p. 76) points out that, in 1870, twelve hundred students attended twenty-one law schools, but, by 1890, this number had risen to forty-five hundred in sixty-one schools.

2. Stevens, *Law School*, 24, 30 (n. 28), 63, 75, 95-96. Prior to 1900, despite the changes in the profession, the vast majority of lawyers in the United States had never attended law school, most had not attended college, and some, like Landis, even lacked a high school degree.

3. KML to Charles A. Funkhouser, 22 January 1897, KML-CHS, 75-550.

4. *LPDJ*, 13 January 1889, 19 January 1889, 27 January 1889, 15 February 1889; *Williams' Cincinnati Directory, 1888-89* (Cincinnati, OH: Williams and Co., 1889), 757; KML to Clerk, Grant County Circuit Court, Marion, Indiana, 29 December 1892, KML-CHS, 75-549. This letter also indicates that, on top of his other problems that spring, Landis was having trouble getting paid for his stenography services, as nearly four years later, he was still trying to obtain money that was owed him.

5. Reginald C. McGrane, *The University of Cincinnati: A Success Story in Urban Higher Education* (New York: Harper and Row, 1963), 26, 126; *Williams' Cincinnati Directory* (Cincinnati, Oh.: Williams and Co.), 1890-91 ed., xi, 1850; *National Cyclopedia of American Biography* (Clifton, N.J.: James T. White and Co., 1926), vol. "A," 22. Cincinnati Law School was preceded only by Harvard (1817), the University of Virginia (1824), and Yale (1826). Most law schools of the late 1880s had similar entrance requirements. In the 1890s, only 8% of United States law students held college degrees and it was easier to get into law school than into most academic programs. In fact, college athletes often enrolled in law school in order to sidestep the more stringent entrance requirements of the regular college. Stevens, *Law School*, 36-38; Jerold S. Auerbach, *Unequal Justice: Lawyers and Social Change in Modern America* (New York: Oxford University Press, 1976), 94-95. J. G. Taylor Spink and others have indicated that Landis attended a YMCA law school in Cincinnati, but the first YMCA school there was not established until 1893, after Landis was gone. This school evolved into the Salmon P. Chase College of Law. Later in life, Landis himself liked to play down the amount of education that he had received in order to appear to be even more of the self-made man. Accordingly, he sometimes told reporters that he attended only a YMCA law school in Cincinnati and a similar school in Chicago. Actually, both law schools that he attended were reputable and among the best in the Midwest. Spink, *Judge Landis*, 7-8; C. Maxwell Diffenbach, "The Origin and Development of the Salmon P. Chase College of Law," *Northern Kentucky State Law Forum*, 1 (Spring 1973) : 1-3.

6. KML to John F. Wilson, 16 May 1892, KML-CHS, 75-549; *Williams' Cincinnati Directory*, 1890 ed., p. 1850; McGrane, *University of Cincinnati*, 126. During the 1890s, the leading law schools shifted to the "case method" of legal education in which students were led through a process of inquiry on actual cases selected to demonstrate certain common law principles. In keeping with other intellectual trends of the late nineteenth century, this method was thought to be more "scientific" and practical as it was based on the assumption that it reduced law to a system of objective doctrines which would produce consistent responses. Stevens, *Law School*, 51-59; Hall, *Magic Mirror*, 219-20; John W. Johnson, *American Legal Culture, 1908-1940* (Westport, CN: Greenwood Press, 1981), 20-24; Maxwell Bloomfield, *American Lawyers in a Changing Society, 1776-1876* (Cambridge, Mass.: Harvard University Press, 1976), 347.

7. Weibe, *The Search For Order*, 66-75; Edward Bellamy, *Looking Backward* (New York: Random House, Inc., Modern Library College Edition, 1982--Originally published

1888), 145-52; Leon Fink, *Workingmen's Democracy: The Knights of Labor and American Politics* (Urbana: University of Illinois Press, 1983).

8. *Williams' Cincinnati Directory*, 1889 ed., p. 1866, 1890 ed., pp. 757, 764, 1850; *LPDJ*, 1 May 1889, 16 March 1890. Mary's brother, C. J. S. Kumler, who was also, of course, Kenesaw's uncle, once operated a business with A. C. Bearss, the Postal Inspector in question, in Peru, Indiana.

9. William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W.W. Norton & Co., 1991), 9-19, 25-26, and generally; Henry Blake Fuller, *The Cliff Dwellers* (New York: Harper and Brothers, 1893), 243 ("shibboleth").

10. Cronon, *Nature's Metropolis*, 13-14; Ginger, *Altgeld's America*, 1-16, 66-67, 113-42, 193-208, 215-21, 305-13, 317-52; Kenny J. Williams, *A Storyteller and a City: Sherwood Anderson's Chicago* (DeKalb, Il.: Northern University Press, 1988), 5-7; Theodore Dreiser, *A Book About Myself* (New York: Boni and Liveright, 1922), 1; Carl S. Smith. *Chicago and the American Literary Imagination, 1880-1920* (Chicago: University of Chicago Press, 1984), ix-xii, 1-20; Edgar Lee Masters, "Introduction to Chicago," *American Mercury* 31 (January 1934) : 49; Robert M. Crunden, *Ministers of Reform: The Progressives' Achievement in American Civilization, 1889-1920* (New York: Basic Books, Inc., 1982), 59, 64.

11. KML to "Sweetheart" (his mother, Mary), 13 June 1892, KML-CHS, 75-549; KML to Gart Shober, 16 March 1893, KML-CHS, 57-572; KML to Henry F. Pringle, 30 November 1926, KML-CHS, 16-132B. Among the newspapermen that Landis met in Chicago in the early 1890s were cartoonist John T. McCutcheon and satirist George Ade, both of whom became lifelong friends.

12. Obituary, unidentified newspaper clipping, "Landis" file, Cass County Historical Society, Logansport, Indiana; "The Youngest Federal Judge," *The World's Work*, 11 (November 1905 to April 1906) : 7465.

13. James A. Rahl and Kurt Schwerin, *Northwestern University School of Law: A Short History* (Chicago: Northwestern University Press, 1960), 5-7; *Chicago Legal News*, 22 (7 September 1889). Quote is from Landis to John T. McCutcheon in: McCutcheon, "Kenesaw Mountain Landis," 421. In later years, Landis enjoyed telling humorous stories about his youth, often with himself as the butt of the joke.

14. *Chicago Tribune*, 18 June 1891; Commencement Invitation, KML-CHS, no file; *Chicago Legal News*, 13 June 1891 (This item mentioned that Landis was admitted to the Illinois Bar on 9 June 1891); Graduation Speech, "The Conservative Man," KML-CHS, 42-458. The original, typewritten transcript of this speech is interesting, aside from its content, for the insight it gives to visualizing Landis' public-speaking style. He underlined or circled words that he wanted to emphasize, but also gave himself explicit stage

directions on how to gesture at particular moments in the speech. For instance, "slow" is written next to several paragraphs, and "one fist," "double fist," and "right hand and finger" are written over significant phrases.

15. For comparison, see earlier discussions of graduation speeches given by Charles Landis ("Conservatism," given in 1883) and John Landis ("1879," given in 1879). *LPDJ*, 21 June 1879, 19 June 1883.

16. Leonard Dinnerstein, Roger L. Nichols, and David M. Reimers, *Natives and Strangers: Ethnic Groups and the Building of America* (New York: Oxford University Press, 1979), 118-22; Wiebe, *Search For Order*, 54, 62; Ginger, *Altgeld's America*, 6, 49-50, 95-96; Paul Avarich, *The Haymarket Tragedy* (Princeton, NJ: Princeton University Press, 1984), 215-21, 401-02, 428-31; Humbert S. Nelli, *The Italians in Chicago, 1880-1930: A Study in Ethnic Mobility* (New York: Oxford University Press, 1970), 125-32. Since the Haymarket tragedy of 1886 had touched off widespread repression, many people in Chicago accepted the official version of the incident and were willing to ascribe guilt to German anarchists, despite evidence to the contrary. Native-born Chicagoans feared that seeds of political unrest were being carried by European newcomers--especially those from Germany, the birthplace of Marxism--and agreed to repressive measures that might contain their subversive influence. Also, the previous fall, the New Orleans' Superintendent of Police had been murdered, local Sicilian immigrants were blamed, and eleven Italian prisoners were taken from their cells and lynched by an angry mob. By June 1891, the incident had grown into an international affair as the Italian government demanded retribution, and aliens from southern Italy found themselves the objects of open fear and contempt across America. The word "Mafia" began to appear in Chicago newspapers for the first time as the city suddenly became aware of its rapidly growing Italian community.

On a more personal level, Landis, with his unquestioning admiration of Judge Gresham, may have inherited a dislike of Germans from his mentor. Charles W. Calhoun, *Gilded Age Cato: The Life of Walter Q. Gresham* (Lexington: University of Kentucky Press, 1988), 13-14.

17. *Chicago Legal News*, 13 June 1891, 22 August 1891, 29 August 1891; *Chicago Tribune*, 18 June 1891. Blodgett was apparently an interim appointment, as he served as Dean for only two years. In 1893, John Henry Wigmore took over, converted Northwestern to the case method of study, and in the process made it one of the most progressive law schools in the nation. Stevens, *Law School*, 60.

18. *Chicago Legal News*, 29 August 1891; KML to William W. Farwell, 3 June 1892, KML-CHS, 75-549; KML to C.E. Hoover, ? July 1892, KML-CHS, 75-549. Among the changes instituted for the fall term in 1891 at Northwestern Law School were the implementation of night classes and the adoption of stricter entrance requirements. Landis taught some night classes while working for Gresham and sharing office space with the

judge's son, Otto, also a young lawyer. The fact that Landis was invited to stay on as an instructor indicates that he was highly regarded by the faculty at Northwestern, as no other graduating student received a similar position.

19. Calhoun, *Gilded Age Cato*, 8, 12-19, 26-40; KML to Thomas T. Crittenden, 26 June 1895, KML-CHS, 75-549 ("best friend").

20. Calhoun, *Gilded Age Cato*, 57-66, 78-85, 91-106; *Washington Post*, 28 May 1895; *The Literary Digest*, 11 (8 June 1895) : 5-6.

21. Ibid., 2-3, 85, 111.

22. Walter Q. Gresham to Abraham H. Landis, 14 June 1888, KML-CHS, 63-370; *LPDJ*, 20 October 1882, 30 April 1886, 21 June 1887, 5 April 1888, 3 June 1888; *The Telescope*, a Sunday supplement to a Dayton, Ohio newspaper, 29 January 1908, KML-CHS, scrapbook 1, 182. Gresham and his children often stayed with the Baldwins when visiting in Logansport.

23. Calhoun, *Gilded Age Cato*, 3-5, 43-44, 57, 59, 87-88, 103 ("first principles," 44 and 59).

24. Calhoun, *Gilded Age Cato*, 52-55, 57 ("fearless judge," quoted from *Indianapolis Sentinel*, a Democratic newspaper), 87-90, 94-95. In a move which illustrates his disregard for a person's social status, Gresham once threatened to hold industrialist Cyrus H. McCormick in contempt of court if he did not respond to a summons to serve jury duty. McCormick appeared and was dismissed by the lawyers as having a conflict of interest in the case. As his clerk at the time, Landis undoubtedly was impressed by the judge's integrity in not backing down before the power and wealth of McCormick. This incident seems especially significant in light of Landis' later treatment of John D. Rockefeller in the Standard Oil case of 1907. *Chicago Tribune*, 2, 3 June 1891.

25. John H. Landis to the *Cincinnati Post*, 28 June 1907.

26. Walter Q. Gresham to George Grantham Bain, newspaper interview, *Washington Post*, 2 June 1895. This interview with Gresham was one of the few granted during his career. Gresham gave the interview in 1893, but did not approve of the final product and it was not published until after his death.

27. Ibid.; Calhoun, *Gilded Age Cato*, 42, 57, 60-61, 88, 107, 111; KML to J. W. Hayes, General Secretary-Treasurer Knights of Labor, 22 July 1892, KML-CHS, 75-549.

28. *Chicago Legal News*, 22 August 1891, 29 August 1891; *Chicago Tribune*, 26 May 1892, 27 May 1892. Almost no information about Landis' teaching career could be found. He is not mentioned as a faculty member in the official history of the school, due to his

brief stay on the Northwestern staff, and he never discussed the experience in existing letters.

29. KML to Walter K. Landis, 8 July 1892, KML-CHS, 75-549 (quote); KML to Charles B. Landis, 10 June 1892, KML-CHS, 75-549; an assortment of letters to clients, KML-CHS, 75-549; KML to A. H. Revel and Co., 2 July 1892, KML-CHS, 75-549; *Chicago Tribune*, 1 March 1892, 10 March 1892, 5 May 1892. He shared his law office at 407 Tacoma Building with several other lawyers, including Gresham's son, Otto, although no partnership existed. At the same time, he moved from a rooming house to an apartment at 4001 Grand Blvd. Reuben H. Donnelly, Compiler, *The Lakeside Annual Directory of the City of Chicago* (Chicago: The Chicago Directory Co.), 1891 ed., 856, 1892 ed., 877.

30. KML to Charles B. Landis, 21 May 1892, 25 May 1892, 10 June 1892, KML-CHS, 75-549; KML to William W. Farwell, 3 June 1892, KML-CHS, 75-549; *LPDJ*, 19 January 1889, 14 March 1890; Pratt, *The Old Crop*, 207. Quotes from KML to "Sweetheart" (his mother), 13 June 1892, KML-CHS, 75-549.

31. KML to A. W. Kumler, 27 May 1892, KML-CHS, 75-549 ("fraud"); KML to "Sweetheart," 13 June 1892, KML-CHS, 75-549. Early in his career, Gresham had bounced from one party to the other in search of a comfortable ideology, and he taught Landis that blind loyalty to party labels was less important than exploring the ideas behind those labels. Calhoun, *Gilded Age Cato*, 10-19.

32. KML to "Sweetheart," 13 June 1892, KML-CHS, 75-549.

33. Calhoun, *Gilded Age Cato*, 109-15.

34. Ibid., 115-17; KML to J. W. Hayes, 22 July 1892, KML-CHS, 75-549 ("not unfriendly").

35. Calhoun, *Gilded Age Cato*, 117-20; Walter Q. Gresham to Morris Ross, 1 August 1892, WQG-LC ("honest, courageous").

36. M. L. Burnham (KML's secretary) to John H. Landis, 28 July 1892, KML-CHS, 75-549; Otto Gresham to Recorder, Monroe, Co., IN, 28 July 1892, KML-CHS, 75-549; numerous letters attempting to collect debts owed Mr. S.B. Foster, 6 August 1892, KML-CHS, 75-549; Burnham to KML, 12 August 1892, KML-CHS, 75-549; KML to W.H. Andrews, 24 October 1892, KML-CHS, 75-549; KML to S.C Atkisson, 23 November 1892, KML-CHS, 75-549; *Chicago Tribune*, 11 January 1893; KML to Harry L. Edwards, 18 January 1893, KML-CHS, 75-549; KML to "Col. Wilson," 19 January 1893, KML-CHS, 75-549 ("hopeless cases"); KML to J. C. Whitney, 19 January 1893, KML-CHS, 75-549 ("among the mourners"); *Chicago Tribune*, 18 January 1893; Transcript of court case, *Stephen C. Atkisson vs. The Fair*, 2 February 1893, KML-CHS, 50-525. Landis spent several weeks on the East coast, a few days in Logansport, and two weeks

in northern Wisconsin on his vacation. He fell in love with the unsullied wilderness of the areas north of Chicago and spent time in Wisconsin or Michigan nearly every summer for the rest of his life. Otto Gresham worked out of the same office as Landis and covered for him during his vacation.

37. Calhoun, *Gilded Age Cato*, 121-24; *Chicago Tribune*, 29 January 1892; George F. Parker, *Recollections of Grover Cleveland* (Freeport, NY: Books for Libraries Press, reprint, 1971, originally published 1909), 178; Gerald Gordon Eggert, *Richard Olney, Corporation Lawyer and Attorney General of the United States, 1835-1895* (Ph.D. diss., University of Michigan, 1960--Ann Arbor, Mich.: Microfilms, 1977) 165; John Marshall Harlan to Melville Weston Fuller, 16 February 1893, Fuller Papers-LC.

38. Calhoun, *Gilded Age Cato*, 123-25; Matilda Gresham, *Life of Walter Quintin Gresham, 1832-1895*, 2 vols. (Chicago: Rand, McNally and Co., 1919), 2:679-80; Eggert, "Richard Olney," 474. Of all the Secretaries of State in the post-Civil War era, only one, John W. Foster, who held the position briefly in the Harrison administration, had substantial training or experience in foreign affairs.

CHAPTER 4
STATE DEPARTMENT, 1893-1895

The two years which Landis spent in Washington proved to be stormy ones for Cleveland and his cabinet. A severe depression hit the country just after the president took office and lasted throughout his second term. Strikes, violence, and demands for change shook Washington, as workers and farmers organized and exercised increasing political power. Other Americans insisted that the United States assert itself more aggressively in the arena of world affairs. Thus, the president and his advisors struggled to deal with the most pressing crises while trying to appease those who clamored for the nation to move in new directions.

The state department felt this pressure as much as any sector of the government. At a time when powerful voices called for the secretary of state to move forward and establish a dynamic foreign policy, Gresham tried to lead the country back to "first principles" in international relations, by which he meant a pure form of republicanism in which America avoided all involvement with lands outside her borders. Because of this difference in attitudes, vituperative critics hounded Gresham throughout his term in office, affecting his health and inhibiting his ability to conduct the affairs of his office.

For his part, Landis heard the condemnation of his boss and defended Gresham's actions at every opportunity. Unlike Gresham, however, he thrived on the exciting

atmosphere of the national capital. Just twenty-six years old when he arrived in Washington, Landis found himself mingling with the most powerful officials and journalists in the country, and he charmed those people with his humor, folksy mannerisms, and competence on the job. And always, he thought about his future and worked on plans for becoming a judge. Landis never missed an opportunity to learn something which might later be useful or to meet someone who could help his career. He studied the intricate maneuvering of congress and learned how bills were passed and deals were made. He made friends easily and used these friendships to help him in Washington while also establishing contacts which might be beneficial in the future. The years in the capital were demanding ones for Landis, but he used the time wisely, with one eye on the present and the other on his carefully designed future.

In March 1893, Landis and Gresham headed to Washington at a time when many Americans perceived that their country had reached a critical moment. After more than a century of steady progress and unfettered optimism, the nation seemed to have lost its momentum and its confidence. In the years following the Civil War, dramatic changes caused many people to question the ability of traditional institutions to deal with new conditions. In their perception, rapid urbanization had led to dirty, corrupt, crime-ridden cities which threatened Jefferson's agrarian vision of the democratic experiment; a flood of undesirable immigrants from southern and eastern Europe had jeopardized homogeneity and national solidarity; unfamiliar, and therefore dangerous, institutions had gained power as businessmen formed trusts and workers organized unions, trapping middle-class entrepreneurs, craftsmen, and young professionals in a position of diminishing

opportunities; class-based violence had erupted, bringing with it fears of radicalism. On top of all that came the announcement that the great American frontier was closed. Observers such as historian Frederick Jackson Turner concluded that America's democratic government, economic success, and national character could all be traced to the existence of this frontier, and implied that, with its end, the land of opportunity was imperiled.[1]

From this concern over the future rose a remarkable burst of energy as Americans sought new frontiers in which to further the nation's success. This energy was focused in two directions during the 1890s: inwardly, in the shape of a bewildering array of reform movements, and outwardly in the form of a jingoistic imperialism. In both cases, Americans tried to reaffirm the strength and vitality of the United States and, in the process, opened the minds of many to new ideas. As traditional solutions lost their ability to settle problems and sway arguments, all areas of life were called into question. As part of this process of national self-examination, critics challenged the old precepts and goals of American foreign policy. During the 1890s, the United States' policymakers began to adapt to a new set of realities brought about by the dramatic social changes.[2]

Before 1889, foreign policymakers operated under a set of assumptions that maintained the nation was protected by its physical isolation and the internal nature of its interests. They adhered closely to George Washington's century-old admonition to avoid foreign entanglements. These men were largely noninterventionist and isolationist in spirit, preferring to operate independently of other nations. Not used to exercising governmental power, they resorted to that option only reluctantly, conducting foreign affairs passively by reacting to, rather than initiating, events. Emissaries abroad were

typically untrained political appointees; the army and navy were weak and inconsequential in terms of foreign policy questions; and Congressmen used foreign concerns much as they did domestic issues--as political matters to be exploited for partisan ends. In short, the United States had no real policy. The period of 1865 to 1889 was instead marked by a series of reactive responses to individual crises or events. This meandering approach seemed logical to most Americans of the time because it met the current needs of the nation. As those needs changed, so did this policy.[3]

While many of these old ideas continued to pilot foreign policy into the 1890s, a new consciousness of America's role in the world began to emerge. It held that the United States was a legitimate world power that demanded respect and an important position in global affairs. A strident nationalism, fed by imperialists such as Alfred T. Mahan, Brooks Adams, and Henry Cabot Lodge, called for a stronger military, capable of establishing and defending colonies which would then provide markets and raw materials for an ever-expanding economy. A severe depression, which hit the nation shortly after Cleveland took office in 1893, caused businessmen and politicians to increase demands that the government give support to private efforts to expand into foreign markets. Further, missionaries and publicists such as Josiah Strong urged governmental assistance in spreading both the Christian religion and the American dream of democracy and capitalism to underdeveloped areas. In fact, those who adhered to a prevalent form of Social Darwinism that justified racism and the subjugation of less-developed people called for America to impose the idea of Anglo-Saxon superiority on distant populations. These new perceptions, then, led Americans to broaden their view of what constituted the nation's

vital interests. Before 1890, these interests were primarily contained within the country's borders. As the decade progressed, such distant lands as China, Hawaii, Central and South America, and the Philippines joined the list.[4]

It was in this context that Gresham, with Landis at his side, entered the state department at a significant juncture in the history of American diplomacy. The nation was expanding outwardly, as were its commercial, political, and strategic interests, and the department of state was being asked to perform new and unfamiliar tasks. For the first time, a more formal "policy" would be required, one that identified long-term diplomatic interests, designed plans to implement and advance those interests, and created a degree of continuity between administrations. Moreover, the secretary of state would be forced to withstand intense pressure from a post-Civil War generation of jingoes who desired a war of their own and an excitable public, easily manipulated by aggressive journalists who sensationalized events in order to attract readers and enhance profits. Under that stress, the secretary would have to weigh carefully the proper action to be taken on the delicate issues of international diplomacy.[5]

A capable and talented man in his own arena, Gresham was ill-trained and unsuited for the office of secretary of state. Outside of giving a few lectures on international law, the judge had devoted his entire career to domestic issues and knew little about foreign policy. His approach to foreign affairs, therefore, was to spend much of his time in the state department meticulously studying each individual problem crossing his desk. Other handicaps hindered his ability to operate an efficient department: he was sometimes tactless and impatient with the opinions of others; he occasionally offended diplomats with his

informality; he lacked the wealth necessary for lavish entertainment; and he suffered from ill-health due to overwork throughout his time as secretary. Moreover, the circumstances of his appointment caused constant problems for Gresham. Perceived as an outsider by the Democrats and a traitor by the Republicans, he held no solid political base and ran into opposition from congress and the press at every step. Finally, reluctant to deal with the time-consuming patronage duties of his office, he allowed others to hand out the political plums controlled by him. Thus, not even all of the people under Gresham's authority owed him loyalty or political allegiance, leading him to express dissatisfaction with several important underlings.[6]

Gresham also suffered because he insisted on treating all questions as purely legal ones. The most ardent nationalists were less concerned with justice than with the United States gaining the upper hand in all international negotiations. Gresham, though, saw his role as that of an impartial judge, making decisions based on international law, precedent, historic American interests, and his own well-developed sense of right and wrong. This approach led to controversy and hostility as Gresham attempted to reconcile his feelings of fairness with the changing priorities of an expanding, newly aggressive nation.[7]

In addition to these shortcomings, Gresham often found himself at odds with the new prerogatives and concerns of the nation. At a time when many Americans looked for a stronger United States presence in the global theater, he sought instead to return to basic republican principles and did not intend to use his office in the same aggressive manner as his predecessor, James G. Blaine. He believed that, as in domestic affairs, republicanism was threatened by greed and venality, and that the United States must avoid

colonization and annexation that ignored the will of native peoples. He consistently spoke out against the acquisition of foreign territories, fearing that such responsibilities could devastate American institutions and republican values, as would the concomitant build up of a powerful military establishment. Consequently, as the country moved toward the twentieth century in a world made smaller by revolutions in communication and transportation, its new secretary of state hearkened backward, toward what he perceived to be a simpler time, when America was isolated and idealistic.[8]

Despite these problems, Gresham developed an instant rapport with President Cleveland, and the two men established a close working relationship. "You don't know what a comfort Gresham is to me," Cleveland wrote to a friend, "with his hard sense, his patriotism and loyalty. It is but little for me to say that I would trust my life or honor in his keeping at all times." Gresham became one of the most influential men in the cabinet as Cleveland increasingly relied upon him for support and advice. The president expected Gresham to conduct not only the routine business of the state department and give direction to the nation's foreign policy, but also to provide analysis on domestic issues during a period of depression, discord, and violence.[9]

After being asked to join Gresham in the state department in February 1893, Landis stayed in Chicago for about a month, wrapping up loose ends and closing his law practice. He completed as many cases as possible and arranged for other lawyers to assume the ones he could not finish. The bulk of these cases went to Otto Gresham, the son of the judge, who shared office space with Landis.[10]

His sudden departure also forced Landis to cut short his only direct involvement with Chicago's budding reform movement. Earlier in the year, at Gresham's urging, he had joined forces with a group of reform-minded citizens to form the Chicago Civic Centre Club, a nonpartisan organization intent on improving city government. Along with Landis, young lawyer Clarence Darrow and journalist Henry Demerest Lloyd formed the group, whose efforts to curtail the activities of corrupt politicians--Chicago's notorious "gray wolves"--ultimately proved futile. At the time, Landis was searching for a way to gain more political influence and was willing to hop on the progressive bandwagon if that would help him get ahead. He enjoyed the attention and publicity that such an organization attracted, but he was too focused on personal advancement to devote much time to the problems of others. Accordingly, he had no regrets about leaving reform to more enthusiastic proponents.[11]

In late March, Landis joined Gresham in Washington and began acclimating himself to his new surroundings. He found accommodations at a boarding house not far from the Arlington Hotel, on Lafayette Square, where Gresham had set up living quarters. His salary of $2000 per year was about the same as he had been earning in his fledgling law practice, but did not allow a great many frills given the high cost of living in the capital. He lived comfortably, however, and managed to enjoy the rich social life of the city whenever the rigorous duties of the state department permitted. During his two years in Washington, he made many social and political contacts which he maintained for the rest of his life. He also experienced his first exposure to the public eye and his first official contact with the press.[12]

In sophisticated Washington, Landis stood out, in both manner and dress. Less than four years removed from provincial Logansport, he still carried much of the small-town, country boy with him. He continued to purchase his clothes from his Indiana home town, and his lack of style, which had gone largely undetected in Chicago, the hectic melting pot of the West, attracted notice in Washington. Working in a department in which formal clothing and the cutaway coat constituted a significant portion of the standard wardrobe, Landis hustled around in baggy trousers and a battered hat, seemingly oblivious to the artlessness of his dress. In addition, his actions and style of speech reminded observers more of a farm boy than of the usual state department official.[13]

Where others might have been embarrassed by the ridicule or might have shrunk from the public eye in shame, Landis managed to turn these superficial shortcomings into assets. To a degree, he merely followed his mentor's lead, as Gresham often dismayed Washingtonians by conducting departmental business in an informal manner, even greeting foreign dignitaries in his shirt sleeves and slippers. But Landis, sensing a chance to distinguish himself from the city's army of governmental clerks and bureaucrats, developed this informality into an art form all his own. One reporter often witnessed the intentional transformation Landis would undergo in order to make fun of the more pretentious members of what they liked to call, "the foreign office." He "would painfully array himself *a la hayseed*," the man recalled. "Taking his Fedora hat, he would knock the Fedora out of it, punching it into every rude, fantastic shape. With coat collar turned up, necktie half un-bowed, cuff un-linked, and the much-punched Fedora on the shiftless back of his head--a picture of studied disrepute--he would pay the Brummels an official

visit . . . . They looked upon him as a barbarian." He even made a point of reciting the folksy, cliché-filled aphorisms of his youth in an exaggerated Middle Western accent within earshot of reporters. Another journalist later characterized Landis during this period as "a plain man whose very lack of ostentation was ostentatious."[14]

Most newspapermen, however, saw him as a breath of fresh air in the normally stuffy environment of the state department. These reporters soon realized they were being put on and played along with the joke. A writer for *The Washington Post* recalled that "his manner was new, his style of address original, and his seeming profundity was intermixed with a humorous way that left the uninitiated in doubt as to whether the young man was a joker or a person of great depth." He quickly endeared himself to the press with his sense of humor, his colorful quotes, and his willingness to discuss departmental affairs over drinks or a hand of poker. One reporter, serving as Washington correspondent for the *Chicago Times*, later remembered, "I found him neither hard to meet nor difficult of acquaintance, and after a talk of ten minutes felt as though I had known him for as many years." Journalists, in turn, respected his right to speak off the record and printed only positive reports about the young secretary. Landis even paid $35.00--almost a week's salary--to join the National Press Club and further cultivate this mutually beneficial relationship.[15]

His easy manner and lack of pretension also charmed the servants, doorkeepers, and messengers of the capital. Landis possessed all of the prejudices of his era, and firmly believed in the superiority of the white race, but he did not condescend to working people of any color. While most of the officials and social-climbing bureaucrats in the city

generally ignored menials, Landis treated them with a degree of respect, stopping for a moment to say hello or share a friendly word. A friend of that period wrote, "I think if you were running for office in Washington you could count with certainty upon the entire negro vote." Yet Landis enjoyed hearing jokes told in exaggerated African-American dialect, and was once remembered as performing a humorous, less-than-flattering imitation of a local black doorman. Landis himself boasted to his brother, in the prevailing terminology of the day, "If I have friends anywhere on earth they can be found among the niggers and poor white trash in Washington." Thus, the young lawyer possessed human qualities which enabled him to treat blacks and poor whites kindly on a personal basis, but stopped short of any sort of enlightened attitudes in regard to race relations.[16]

Landis and Gresham quickly settled into a grueling schedule which they generally followed for the next two years. On a routine day, Landis would, at 8:00, bring the morning mail to his boss at the Arlington, where, for the next three hours, the two would work through this correspondence, with Gresham dictating responses to Landis, who recorded them in shorthand. Landis would later write these letters out in longhand or have them typed for Gresham to sign. At 11:00, the two men walked across Lafayette Square to the state department, where Gresham greeted an assortment of visitors for two or three hours. As Gresham insisted that the door be always open, diplomats, politicians, office seekers, reporters, and friends passed through the department, after first being screened by Landis.[17]

In this role the young secretary occasionally took it upon himself to teach rude reporters some manners. Once an aggressive, tactless newspaperman, detested by Landis,

came storming into his office spitting out, "Hello Landis. Where's the Judge?" With a sudden twinkle in his eye, Landis replied, "in the other room," indicating with a nod of his head. The journalist bulled his way into the inner office, but a moment later came backing out, mumbling apologies. "Why," he gasped, "the British and Chinese Ambassadors are with the Judge." "I know that," returned Landis sarcastically, "but I supposed, of course, the Judge would stop to see you." The reporter left, crestfallen, as Landis chuckled at his discomfort. Later, Gresham asked him with a smile, "You were trying to play some joke on that young man?" "He's too fresh," answered his secretary, "I thought I'd let him blunder into a coal-hole or two. It'll teach him to go a little slower."[18]

Following a brief lunch, sometimes eaten in the office, they met only department personnel or those with appointments. Unexpected business or visits to the White House for cabinet meetings or consultations with President Cleveland often prevented any real work from being attended to until after 4:00. From 4:00 until 6:00 they sequestered themselves in the office for sustained, uninterrupted work before pausing for dinner at the Arlington. They usually carried papers with them back to the hotel and continued working until well after dinner and into the night. According to Landis, the judge "never rested" while secretary of state, and Gresham himself characterized his job as "one of incessant toil." And, as usual, Landis worked every bit as hard as his boss.[19]

The problem of office seekers and appointments took up a large part of the first few weeks in office. Diplomatic posts were among the most sought after positions in the new administration, and the State Department was besieged by men seeking such favors.

Gresham had little taste for this part of the job and left most of the decisions to President Cleveland or to his first assistant secretary, Josiah Quincy, a devoted party worker. As a result, he soon faced a situation where he was dependent upon men in key posts whom he did not know and could not always trust. Landis, to his displeasure, also found himself surrounded by men pursuing appointments or trying to use him to get to Gresham. Of one such man, Landis wrote to his brother, "I am afraid he will be a badly disappointed man. I do not care to recommend or endorse anybody for any appointment." Still, he treated each candidate with such civility that an office seeker who had failed to get a post felt compelled to tell Landis that "your genuine courtesy and kindness to me was and still is deeply appreciated."[20]

On May 1, 1893, Landis accompanied Cleveland, Gresham, and other cabinet members to Chicago for the opening of the Columbian Exposition. The fair bombastically hailed the growth, prosperity, and confidence of America. However, within a week of its opening, the Panic of 1893 began, quickly developing into the worst depression of the century.[21]

While politicians argued over the causes and possible solutions to the situation, more people lost their jobs, wages were cut, and strikes broke out. The worst of these, that against the Pullman Company in Chicago in 1894, grew into a general railroad strike which disrupted two-thirds of the nation's rail traffic and caused widespread fear that radicals would try to overthrow the government. Gresham sympathized with the workers, believing that special interests received too much protection and that only a more equitable distribution of business profits could solve the problem. He wrote: "The laboring men of

the country . . . firmly believe they are oppressed [and] that the powers of the Government have been perverted to their injury in the interests of the rich." He also vigorously disagreed with attorney general Richard Olney's employment of a court injunction and federal troops to end the strikes. He--and Landis--saw Olney as a wealthy railroad lawyer who showed more concern for the rights of property than for the rights of the common people. The depression and labor unrest lasted throughout Gresham's time in office, domestic issues continually distracting him from foreign policy concerns.[22]

On foreign issues, the question of Hawaiian annexation awaited Gresham when he entered office and remained a dilemma for his entire term. His actions concerning Hawaii also serve to illustrate his general opinions of the limits of American foreign policy. In January 1893, American interests on the islands spearheaded a coup against the Hawaiian monarchy. With the aid of United States troops, and over the protests of the Hawaiian Queen, these men established a provisional government, gained rapid recognition from the American minister, and negotiated a treaty of annexation which outgoing President Benjamin Harrison hastily submitted to the Senate. Upon taking office, Cleveland withdrew the treaty so that he and Gresham could investigate the matter more carefully. By mid-March, the "Hawaiian question" was the hottest issue in America, with debates raging over the pros and cons of annexation.[23]

To Gresham, the issue needed no further investigation. He vehemently believed that one set of principles should guide Americans, whether as individuals or as an entire nation, and that those same precepts applied to both domestic and foreign concerns. In an admiring article published after Gresham's death, Landis wrote that Judge Gresham was

deeply committed to the ideals expressed in the Declaration of Independence and that "it was his firm conviction that to the extent that our government ceased to observe those principles in its dealings with its own people or with the people of other lands, the very structure of republican government itself would be thereby weakened." Gresham "was jealous of the honor of his country," Landis noted, and "he viewed with horror the proposition to forcibly annex the domain of an alien people." In Gresham's opinion, "the acquisition of distant lands by the United States was forbidden by all considerations, both of high morality and sound policy."[24]

For two years, Gresham did everything in his power to block annexation, despite protests from politicians, journalists, and the public. At considerable political expense, President Cleveland generally followed his lead on this question. This stance weakened his leadership of the Democrats and gave the Republicans an exploitable issue. Gresham believed so strongly in the principles of republicanism that he was willing to defy public opinion and become, in Landis's words, "the target for the most acrimonious criticism." Gresham took the high moral ground and expected his contemporaries to see ultimately that he was right. That eventuality never occurred. The provisional government remained in power, the Queen never regained her throne, and the majority of the American people remained committed to the idea of annexation. Gresham's efforts only postponed annexation until after his death.[25]

His stubbornness, his insistence on reducing all issues to their legal or moral components, and the fact that his beloved "first principles" often ran in opposition to the contemporary needs and desires of the American people made Gresham's term in office

turbulent. Still, those rare qualities of integrity and adherence to high ideals also won him many admirers, with Landis first on the list. To Landis, Gresham was one of the great men of American history, and he felt privileged to work with him. In addition, Landis made a conscious effort to emulate his mentor, and adopted many of Gresham's personal characteristics during his later career.[26]

In some ways, however, Landis was still a rambunctious youngster set loose in exciting new surroundings, and he found himself in trouble on at least one occasion. He had many friends among the journalists of the city and, in November 1893, his friendship may have outweighed his common sense and professionalism, for he was accused of leaking to the press information about the Hawaiian situation. During a period of sensitive diplomatic negotiations, President Cleveland suspected that Landis was responsible for these leaks and told Gresham to fire his personal secretary. Gresham himself was "downright angry," but stood firmly behind Landis. Cleveland relented and eventually came to like the efficient young lawyer and respect his abilities. If Landis was indeed responsible for the leaks, he either grew more close-mouthed or reached an agreement with his newspaper friends, for he was never again the object of such accusations.[27]

In spite of this incident, Gresham "loved Landis and trusted him as a father loves and trusts a favorite son," according to a journalist who observed their relationship first hand. When asked why he chose to take Landis with him to Washington, Gresham replied, "I have met lawyers of all ages . . . Landis is the brightest and soundest lawyer for his years and the quickest lawyer for his years and a man who has the most common sense for his years that I have ever known." The younger man even deigned to offer

advice to the judge, sometimes making his point with Lincolnesque stories which served as metaphors for a real life situation. In 1894, when a controversy involving the fur seals of Alaska seemed to Landis to be growing all out of proportion to its importance, he read Gresham a letter from his father. The letter told of a mud patch behind their barn which had plagued the family for years. His father decided to fill it up, but when he set to work with two horses hitched to a scraper, the mares became bogged down in the quicksand hole and were drowned before they could be extricated. "Morgan mares they were," sighed Landis, "and worth every splinter of $500. Gone at a gulp--both of 'em." When Gresham expressed his understanding, Landis said, "You miss the point. It wasn't the sympathy end I was thinking of, Judge. But doesn't the whole business remind you of the State Department?--this filling up a fifty-cent mud-hole with a $500 team? Between us. it strikes me as vastly resembling our position on the Alaska seal question."[28]

Gresham also enjoyed Landis' tongue-in-cheek posturing and would sometimes play along with his secretary's efforts to terrorize the clerks and underlings of the state department. One reporter witnessed several incidents wherein Landis would storm in while Gresham was occupied with "some obsequious deskite." Landis would pretend to scold his boss for something not done according to his specifications and threaten to quit if his performance did not improve. Gresham would apologize meekly while the clerk who observed the charade was awed into submission by Landis' audacity. Later, the two Hoosiers would privately chuckle at the fear Landis had instilled in yet another clerk.[29]

In March 1895, Landis became involved in an incident which helped somewhat to restore Gresham's national reputation. On March 8, a Spanish warship fired at an

American merchant vessel, *Allianca*, as it passed between Cuba and Haiti. The shot missed, but the American press and public clamored for an apology or for military action. At the time, Gresham was bedridden with a serious illness and Cleveland was out of town hunting ducks, so an assistant secretary of state, acting in Gresham's absence, wrote a vehement telegram to the American minister at Madrid instructing him to demand an apology. Landis, seeing this telegram before it went out, took it to Gresham and suggested that he sign it rather than have it go out under the assistant secretary's signature. Landis believed that the responsibility belonged to Gresham and he should therefore also receive the credit which would surely follow such a strong statement. The newspapers printed the text of this telegram a few days later, and Gresham was praised enthusiastically for his aggressive response to the Spanish. The secretary, however, less concerned with public approval than his young admirer, soon came to believe that the draft he had signed had "gone too far," and patiently waited for two months before Spain replied in a satisfactory manner.[30]

In mid-May, when the reply finally came, Gresham was fighting for his life. A variety of illnesses vexed Gresham throughout his two years as Secretary of State. Sixty years old when he went to Washington in March 1893, he was in "splendid health," according to Landis. The grueling pace and his poor personal habits, however, soon took their toll and his condition steadily declined. He slept little, ate irregularly, and smoked constantly. Moreover, the continual stream of criticism of his policies did little to help his spirits. Beginning in August 1893, when a fever took him out of the office for a week, severe colds, stomach trouble, pleurisy, and, finally, pneumonia incapacitated him on a

regular basis. Landis himself suffered ill-health from the frantic schedule, and often maligned Washington's weather as "the most fiendish climate on earth." During his two years there, he suffered from malaria and remarked that "ninety degrees in the shade in the City of Washington is infinitely worse than three-thousand degrees anywhere else."[31]

During the periods of Gresham's illnesses, Landis assumed responsibilities and duties that would not have come his way had the secretary enjoyed good health. He essentially ran the office in Gresham's absence and dealt with all but the most important business. He handled the correspondence, greeted visitors, relayed information between the White House and the department of state, and made low-level decisions on his own. Because he could so accurately gauge the thoughts of Gresham, he was even permitted to sit in on cabinet meetings when the secretary was unable to attend. The appearance of Landis at these biweekly meetings is not as unusual as it might at first seem, as Cleveland conducted them in an extremely informal manner. The president and his chief advisors generally began with a chat about the day's events and often did not progress beyond the stage of relating stories and anecdotes to each other. Secretary of the Navy Hilary A. Herbert remembered Cleveland as an "apt raconteur and a good listener" who encouraged all present to participate on equal terms. Given this informal setting, Landis fit right in, as he was never intimidated by the high rank of his associates, and he could certainly hold his own with any man in the field of story-telling.[32]

By the winter of 1894-95, it became evident to Landis that Gresham was working himself to death. "All winter and spring," he told a friend, I saw what must inevitably result and begged and pleaded and complained but it seemed absolutely impossible to

induce him to leave off." Seriously ill in March, Gresham recovered somewhat, but in early May developed a bad case of pleurisy which placed him on the critical list. He improved slowly, and in late May Landis went to Warm Springs, Virginia to make arrangements for his convalescence. Landis was still there when Gresham developed pneumonia and died on May 28.[33]

Grief stricken, Landis wrote that "the work in the State Department killed him. Had he deliberately opened an artery dissolution would have been no more sure." He had seen Gresham a day or two before his death and remembered him as being bright, cheerful and optimistic about the future of the State Department. Landis recalled that Gresham had expressed pride in the work that he had done there and believed that "the clouds had about all cleared away." In a letter to a common friend, Landis communicated his grief and offered a tribute, writing, "There is something about the death of Judge Gresham which I cannot reconcile with anything that is good. . . . It is not possible that there was ever a more absolutely unselfish man." He also indicated the high regard with which he held his hero saying, "He was engaged in such noble work, that . . . a great national calamity has befallen our people. . . . when he died, all good men and all good women lost a friend."[34]

On board a special train, Landis, President Cleveland, and other Washington officials accompanied Gresham's body back to Chicago for the funeral. Landis remained there a few days deciding his future in the wake of this sudden tragedy before returning to Washington to complete his responsibilities as Gresham's secretary. Gresham's successor, Attorney General Richard Olney, consulted privately with Landis before being sworn in as the new secretary of state. This duty must have been especially galling to

Landis, as both he and Gresham had strongly opposed Olney's employment of a court injunction and federal troops against the Pullman strikers in 1894.[35]

While in Chicago, Landis had decided that, with Gresham dead, he had no future in Washington, and that he would try to pick up the shreds of his former law practice in the Windy City. Upon visiting President Cleveland, however, he discovered that he had yet another option to consider. The post of United States ambassador to Venezuela had been vacant since mid-May and Cleveland asked Landis to fill the position. The president needed a reliable man at that post because a border dispute involving some valuable gold-producing lands was heating up between Great Britain and Venezuela. With the authority of the Monroe Doctrine at stake, the controversy required deft handling, and Cleveland wanted someone possessing experience and familiarity with the situation. On his part, Landis must have been flattered and seriously tempted by the offer, which in addition to the prestige of the position, would have tripled his salary. In the end, however, he declined the offer, explaining to a friend, "The President and the Cabinet were very good to me,--more than generous, but Chicago is my home and the only place I care to live." By the summer of 1895, moreover, he had fallen in love and he was eager to settle down, start a family, and take the next steps toward a federal judgeship. He believed the landing of a judgeship would first require him to establish his legal credentials and political contacts. These were things which could not be accomplished in South America.[36]

Landis made many valuable and long-time friends and in Washington. Not the least of his relationships were those which he developed with newspapermen. Reporters on the Washington beat would miss his candor and unique style, and the *Washington Post*

gave him a send-off which was unusually personal and heartfelt for an official of his relatively low status, writing, "In the discharge of his delicate and responsible duties, Mr. Landis has been invariably courteous, tactful and discreet, and he leaves many warm friends behind him in Washington."[37]

Because of Gresham's sudden death, Landis left Washington unexpectedly, with a somewhat uncertain future. He had plans--he always had plans--but he had thought that he would have more time to work out the details before returning to Chicago. Still, after the two-year interruption, he looked forward to getting on with his life. As much as he loved and admired Gresham, Landis found it difficult to work under the authority of any man and he was eager to get out on his own and establish his independence. In his mind, moreover, he could not be fully independent until he became a federal judge. He realized that the next few years would be crucial in preparing to achieve that ultimate goal. He did not intend to waste those years.

Notes

1. Robert L. Beisner, *From the Old Diplomacy to the New, 1865-1900*, second ed., The American History Series (Arlington Heights, IL: Harlan Davidson, Inc., 1986), 74-76; Weibe, *Search for Order*, 44-75; Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Vintage Books, 1955), 5-9, 174-186, 215-219; Walter LaFeber, *The New Empire: An Interpretation of American Expansion 1860-1898* (Ithaca, NY: Cornell University Press, 1963), 63-72.

2. Beisner, *From the Old Diplomacy to the New*, 76.

3. Ibid., 36-37.

4. Beisner, *From the Old Diplomacy to the New*, 76-86; Wiebe, *Search for Order*, 224-39, 254-55; Emily S. Rosenberg, *Spreading the American Dream: American Economic and Cultural Expansion, 1890-1945*, American Century Series (New York: Hill and Wang,

1982), 14-62; LaFeber, *The New Empire*, 62-101.

5. Beisner, *From the Old Diplomacy to the New*, 84, 86-89;

6. Calhoun, *Gilded Age Cato*, 132-35.

7. Ibid., 135.

8. Ibid., 135-36.

9. Ibid., 125, 132; Grover Cleveland to Don M. Dickinson, 20 March 1895, in Allan Nevins, ed., *Letters of Grover Cleveland, 1850-1908* (New York: Houghton Mifflin Co., 1933), 382 ("what a comfort"), 397; Eggert, "Richard Olney," 190, 192.

10. KML to Ida May Woods, 27 March 1893, KML-CHS, 75-549; KML to G. L. Davis, 27 March 1893, KML-CHS, 75-549.

11. Ginger, *Altgeld's America*, 248.

12. Calhoun, *Gilded Age Cato*, 125; *Register of the Department of State, 1893* (Washington: Government Printing Office, 1893), 10. Landis lived at Mrs. Senseney's boarding house, 1138 Connecticut Avenue in Washington. KML to Mrs. Senseney, 13 January 1897, KML-CHS, 75-550.

13. KML to Jacob Herz, 2 November 1892, KML-CHS, 75-549; *Washington Post*, 8 July 1907 (reprinted in *New York Sun*, same day); Pringle, "Bench Warmer," 618-19. The *Washington Post* article, upon which many later Landis articles were based, was probably written by John T. McCutcheon, famed cartoonist, occasional reporter, and, eventually, close friend of Landis.

14. Pringle, "Bench Warmer," 618-19 ("ostentatious"); Calhoun, *Gilded Age Cato*, 133; *Washington Post*, 28 May 1895; Alfred Henry Lewis, "Judge Landis," *Human Life*, 6 (October 1907) : 6 (Fedora hat story).

15. *Washington Post*, 8 July 1907 (including quote); Pringle, "Bench Warmer," 618-19; Henry L. Bryan to KML, 23 April 1896, KML-CHS, 4-49; Lewis, "Judge Landis," 5 ("I found him"). At this time, Landis developed such a reputation as a shrewd card player that a Washington friend later offered to play poker with Landis, but only if "accompanied by a loaded shotgun." F.J. Kieckhoefer to KML, 21 December 1896, KML-CHS, 29-299.

16. KML to Charles B. Landis, 10 April 1896, KML-CHS, 75-550 ("If I have friends"); Frank J. Kieckhoefer to KML, 9 November 1896, KML-CHS, 29-299 ("running for office"); Charles A. Boynton to KML, 21 August 1897, KML-CHS, 76-538; KML to

Boynton, 2 September 1897, KML-CHS, 76-538.

17. George Grantham Bain, interview with Walter Q. Gresham (Hereafter referred to as "WQG"), *Washington Post*, 2 June 1895, interview conducted summer 1893; Calhoun, *Gilded Age Cato*, 126; *Chicago Examiner*, 11 August 1907.

18. Lewis, "Judge Landis," 6 (story of the reporter). The phrase "blunder into a coal-hole" is another example of Landis using familiar analogies to make an unrelated point.

19. Bain, WQG interview, *Washington Post*, 2 June 1895; Calhoun, *Gilded Age Cato*, 126; Matilda Gresham, *Life of Walter Quintin Gresham*, 2:580; WQG to Mrs. Potter Palmer, 26 March 1894, Walter Q. Gresham Papers, Chicago Histoical Society ("WQG-CHS") ("incessant toil"); KML to John Bassett Moore, 14 August 1895, John Bassett Moore Papers, Library of Congress ("JBM-LC") ("never rested"). Other letters in the John B. Moore Collection come from the state department in 1893-1895, written in Landis' hand and signed by Gresham.

20. *Washington Post*, 11 March 1893; Calhoun, *Gilded Age Cato*, 133; KML to John H. Landis, 11 March 1893, KML-CHS, 75-549 ("I do not care to recommend"); Frederick G. Lamb to KML, 19 February 1922, KML-CHS, loose letter, no box, no folder ("genuine courtesy").

21. *Washington Post*, 26 April 1893; *Chicago Tribune*, 30 April 1893; Gresham, *Life of Walter Quintin Gresham*, 2:699.

22. Calhoun, *Gilded Age Cato*, 126-32; Walter Q. Gresham to John S. Cooper, 26 July 1894, Wlater Q. Gresham Papers, Library of Congress ("WQG-LC") ("The laboring men"); Rull Johnson to Walter Q. Gresham, 24 July 1893, WQG-LC; Walter Q. Gresham to John B. Moore, 8 May 1894, memorandum, JBM-LC; Eggert, "Richard Olney," 393, 412-14. Historians, especially Walter LaFeber (see *The New Empire*, 197-203), who see American foreign policy as driven primarily by economic concerns, point to Gresham as the best example of a policymaker who drew strong links between economic expansion--without colonies--and domestic unrest. In this view, Gresham believed that expanding American economic markets abroad would drain off surplus production, cure the depression, and prevent a possible revolution. Charles Calhoun, Gresham's biographer, disputes this contention, arguing that Gresham rarely inferred such a clear-cut connection between expansion and the nation's labor troubles. He asserts that Gresham had long been sympathetic to the plight of the American laborer, and "rather than advocating economic expansion, he believed that the solution to class difficulties must come through some change in the domestic economic system--a change he never seemed able to define." Calhoun, *Gilded Age Cato*, 134-35.

I have no direct evidence on the attitudes of Landis during the Pullman strike. However, as he walked in such close lock-step with Gresham in these years, I believe he shared all of his mentor's opinions on the subject. In addition, at the time of the strike,

he received two letters from Chicago friends which seem to indicate that the writers were addressing a man who opposed the use of the injunction. One of these, from Peter S. Grosscup, the judge who helped draw up and grant the injunction, questioned the wisdom of such action and argued that the attorney general had thus forced federal judges to take sides in labor disputes. Grosscup to KML, 26 July 1894, WQG-LC; John S. Cooper to KML, 17 July 1894, KML-CHS, no file, no box; Gresham, *Life of Walter Quintin Gresham*, 1:419.

23. Calhoun, *Gilded Age Cato*, 145-46; LaFeber, *The New Empire*, 203-04; *Washington Post*, 11 March 1893. Stories on the Hawaiian situation dominated American headlines throughout February and March, 1893. See *Washington Post* and *Chicago Tribune.*

24. KML, draft of an article written for the *Chicago Legal News*, 28 June 1900, KML-CHS, 77-542; Calhoun, *Gilded Age Cato*, 147, 160-61.

25. Calhoun, *Gilded Age Cato*, 160-61; KML, article written for *Chicago Legal News*, 28 June 1900, KML-CHS, 77-542 ("acrimonious criticism").

26. KML, article written for the *Chicago Legal News*, 28 June 1900, KML-CHS, 77-542.

27. *Washington Post*, 8 July 1907; *Washington Times*, 15 September 1907; Walter Q. Gresham, quoted in Calhoun, *Gilded Age Cato*, 150 ("downright angry"). From the remaining evidence, it is not clear whether Landis leaked the information or not.

28. Lewis, "Judge Landis," 6 ("loved Landis," anecdote); *Havana (Ill.) Daily Post*, 30 July 1907 ("brightest and soundest").

29. Lewis, "Judge Landis," 6.

30. McCutcheon, "Kenesaw Mountain Landis," 421-22; Calhoun, *Gilded Age Cato*, 214 (including Gresham's "gone too far" quote); *Papers Relating to the Foreign Relations of the United States*, 1895, Pt. 2, (Washington: Government Printing Office, 1896), 1177-1186; *New York Times*, 13, 15, 16, 17, 19, 20 March 1895, 18 May 1895; *Chicago Tribune*, 5 February 1896. There is some dispute over who actually wrote the celebrated telegram, First Assistant Secretary, Edwin F. Uhl, or Second Assistant, Alvey Adee. Landis specifically told McCutcheon that Gresham scratched out "Uhl, acting" before signing his name, and the newspapers of the period gave Uhl credit. Calhoun, however, claims that Adee had written the draft signed by Gresham.

31. Calhoun, *Gilded Age Cato*, 133, 219-221; KML to John Bassett Moore, 14 August 1895, JBM-LC ("splendid health"); Walter Q. Gresham to Fred D. Grant, 4 August 1893, WQG-LC; Walter Q. Gresham to F.H. Marsh, 4 August 1893, WQG-LC; Edwin F. Uhl to W.W. Morrow, 5 September 1894, JBM-LC; Thomas F. Bayard to Walter Q. Gresham, 9 March 1895, WQG-LC; KML to Edwin F. Uhl, 18 December 1895, KML-

CHS, 75-536; KML to George H. Harris, 13 February 1896, KML-CHS, 75-536 ("fiendish climate"); KML to Thomas W. Cridler, 27 June 1898, KML-CHS, 76-538 ("ninety degrees in the shade").

32. Henry Elliott to Walter Q. Gresham, 7 March 1895, WQG-LC; Obituary, unidentified newspaper clipping, "Landis" file, Cass County Historical Society, Logansport, Indiana; Hilary A. Herbert, "Grover Cleveland and His Cabinet At Work," *Century Magazine*, 85 (March 1913) : 741; Festus P. Summers, ed., *The Cabinet Diary of William L. Wilson, 1896-1897* (Chapel Hill: University of North Carolina Press, 1957), 8.

33. Calhoun, *Gilded Age Cato*, 220; KML to John Bassett Moore, 14 August 1895, JBM-LC ("All winter and spring"); *New York Times*, 5, 6, 11, 12, 26, 28 May 1895; *Washington Post*, 28 May 1895.

34. KML to John B. Moore, 14 August 1895, JBM-LC ("work in the State Department"; KML to John B. Moore, 24 June 1895, JBM-LC (KML quoting WQG: "clouds"); KML to Thomas T. Crittenden, 26 June 1895, KML-CHS, 75-549 ("cannot reconcile," and "noble work").

35. *New York Times*, 30 May 1895, 11 June 1895; *Washington Post*, 1, 11 June 1895; Calhoun, *Gilded Age Cato*, 131. During the next year, Landis repeatedly expressed his dissatisfaction with the way Olney was handling the department and Gresham's old friends, once saying, "It sometimes appears to me that Olney has gone mad." KML to Henry L. Bryan, 25 April 1896, KML-CHS, 75-536 (including quote); KML to E.M. Blum, 28 October 1895, KML-CHS, 75-536; KML to William Haywood, 21 February 1896, KML-CHS, 75-536.

36. McCutcheon, "Kenesaw Mountain Landis," 422; *National Cyclopedia of American Biography*, vol. A, 22; KML to Thomas T. Crittendon, 26 June 1895, KML-CHS, 75-549 ("Chicago is my home"); *New York Times*, 13, 14, 15, 22 May 1895, 14 June 1895; *Washington Post*, 14 June 1895. By the end of summer 1895, the Venezuelan situation had blown up into a full scale crisis which brought the United States to the brink of war with England.

37. *Washington Post*, 12 June 1895.

CHAPTER 5
CHICAGO LAWYER, 1895-1905

For ten years after he left Washington, Landis struggled to find his niche within Chicago's legal community. His timing was terrible, as he opened his practice during a devastating depression and pursued a solo career during a time when the most successful attorneys were beginning to form ever-larger partnerships and law firms. Further, his stubbornness, ego, and independence often worked against him, causing him to act impetuously and blame others when things did not go his way. As the nineteenth century ended, however, he had learned how to compromise when the situation called for it, and this change in attitude provided a much-needed boost to his career. By 1905, he had earned a reputation as a successful attorney who represented corporate clients and won his cases. Thus, he had compiled the sort of record he needed if he was to become a serious candidate for a federal judgeship, a position he had set his sights on before he left Washington. He would be satisfied with nothing less than the achievement of that goal.

His sudden return to Chicago in June 1895 left Landis in a bit of a fog. He planned to re-open his law office, but first he needed to take care of some unfinished business in connection with Judge Gresham. Driven by a sense of loyalty, he believed that he had to do something to help restore the reputation of the former secretary of state, who had, in his opinion, been "maligned and misrepresented" by the press. Landis had idolized

the man, and he wanted the rest of America to share his appreciation for the extraordinary contributions of the judge. Gresham had suffered from a "great mass of adverse newspaper criticism," Landis wrote, and he set out to correct the public image of his "grand old friend."[1]

In order to set the record straight and amend the distorted image of the judge, Landis wanted to establish lasting monuments to the character of Gresham. Just before his death, Gresham had posed for a portrait by Chicago artist, Frank M. Pebbles. Landis went to two of Gresham's friends, millionaires Marshall Field and Potter Palmer, and convinced them to pay for the painting, bring it to Chicago for a special exhibition at the Art Institute, and then donate it to the gallery of the department of state. He also persuaded members of the Chicago bar to take up a collection and contract Pebbles to create a copy of the portrait to be hung in the local courtroom of the United States Circuit Court of Appeals. Moreover, he tried, unsuccessfully, to get local lawyers to purchase a bust of the judge for the same courtroom. Finally, he asked Columbia professor John Bassett Moore to write a biography of Gresham. Generally recognized as one of the most knowledgeable foreign affairs experts in the nation, Moore had been a close friend of Gresham, and Landis argued that no one else could do the man justice or carry sufficient prestige to ensure a wide reading by the general public. "I have enough faith," Landis told Moore, "in the honesty and patriotism of the great body of people, to believe that if they were placed in possession of the facts connected with his administration of the State Department, the old feeling of him would be rekindled."[2]

In addition to this project, his upcoming wedding occupied part of Landis' time. While in Washington, he had fallen in love with a young woman, Winifred Reed, of Ottawa, Illinois. Miss Reed had arrived in the capital at the same time as Landis, moving in with her sister and her brother-in-law, new controller of the currency, James H. Eckels. Eckels and Landis had met as Chicago lawyers and become friends. In addition to sharing common friends and similar interests, soon each fell in love with one of the daughters of Ottawa postmaster, John F. Reed. Landis had met Winifred at a state department function, and within a year the two young people were planning their wedding. In April 1895, he found a suitable two-room apartment in a Washington boarding house and signed a lease which would run from mid-September, after their planned honeymoon, until March 1897. Gresham's death altered these plans, but Landis turned down the Venezuelan post in part because he wished to marry and settle into a normal life as soon as possible. They married in Ottawa on July 25, 1895, with Landis' uncle, the Reverend George A. Funkhouser, performing the ceremony before family and friends from Washington and Chicago.[3]

Beginning in 1895, then, his family concerns, always a top priority, shifted from his brothers, sisters, and parents to his wife and children. After their marriage in 1895, he and Winifred moved into a south side apartment, and they relocated several times as their family grew, but always within the same general neighborhood, near the new University of Chicago. For his personal nickname, Winifred called Landis "Squire," his old childhood name, while her pet name evolved from "Winnie," to "Fred," to "Fritzie." They had a son, Reed Gresham, in July 1896, and a daughter, Susanne, a year later.

Giving Reed the name of his late mentor, along with Winifred's family name, reflected the esteem with which he regarded Judge Gresham.[4]

Having been gone for more than two years, Landis essentially had to start his law practice over from scratch. He hoped, however, to capitalize on the enhanced reputation that he believed his experience in Washington had given him. He returned to Chicago in mid-June and within ten days was hard at work on several cases. Optimistic over this quick start, he wrote a friend, "My prospects are bright indeed and I think the outlook is such that if I behave myself and attend diligently to business the future is reasonably secure." In reality, he had returned to the law business at an inauspicious time, as the depression, the impact of which had been delayed in Chicago due to the economic effect of the World's Fair, had hit full stride by the summer of 1895. Soon he, like many other Chicago lawyers, found himself scrambling for small cases or acting as a collector of overdue payments.[5]

During the decade of the 1890s, the legal profession, like so many other facets of American life, underwent sweeping changes. Earlier in the century, most lawyers had practiced alone or in partnership with one or two others. They filled the limited role of advocate, hired for a specific case, who argued their client's cause in the adversary proceedings of a courtroom. They then depended on the judge to reach a fair decision based on the supposedly neutral principles of common law. These attorneys were generalists who dealt primarily with individual clients and simple problems which the average lay person could usually understand. That system began to change in the late nineteenth century, however. In response to the trend toward big business, lawyers, too,

began to combine their talents and form large law firms of five or more members. In an era of increasing legal complexity, certain firms started to specialize in lucrative new fields of law such as tort liability, patent law, and corporate reorganization proceedings. In addition, many corporations began to assemble their own teams of attorneys who dealt with the problems of that company alone. Metropolitan lawyers realized that corporate clients offered greater prestige as well as larger paychecks, and the profession gradually shifted from advocacy to counseling. Thus, by the 1890s, many attorneys were paid to keep one particular client out of lawsuits and became involved in other activities--negotiating, public relations, legislative drafting, arbitration--which moved beyond the former limits of the adversary system.[6]

Landis recognized the changes taking place in his profession, but was unsure of which path to take. While hungering for the money and prestige of the larger law firms, he cringed at the idea of working for other people. Only a superb working relationship with the man he most admired had made the previous two years as a subordinate palatable. The driving force in his life had always been a desire to command his own destiny. Moreover, Landis harbored a strong dislike of corporations, a feeling which was bred in his boyhood and nourished by the lessons he learned at Gresham's side. Using his legal skills, as he saw it, to benefit big business at the expense of the common, working man, was not something which he could do easily. He therefore chose to open a solo law office.[7]

In 1895, Chicago offered a great deal of potential legal business, even for a struggling young lawyer going it alone. In addition to the burgeoning business and

industrial sector, the city had a wide disparity of people and problems. Chicago had some one and one-half million residents, dozens of nationalities, and vast differences in wealth, status, morals, and political or religious beliefs. Small farms and large tracts of uninhabited land stood near tenements, mansions, and skyscrapers. More than two hundred millionaires displayed their fortunes in conspicuous ways while immigrant families sent their small children to work in the sweat shops of the clothing trade. Diphtheria, pneumonia, tuberculosis, typhoid, scarlet fever, smallpox, and other diseases flourished in the filthy neighborhoods of desperate poverty. The putrid Chicago River carried garbage, animal carcasses, and human excrement along with the city's drinking water. This channel caught fire often enough that the fire department developed special techniques for combatting the flaming water. The stench from the river and the famous stockyards permeated the city. Still, about fifty thousand new people flocked to the "Gem of the Prairie" every year, bringing overcrowded conditions and an increase in crime and violence. In turn, a rising paranoia over the "dangerous classes" led to suppression, harassment, and brutality by the police and unfair treatment by the courts.[8]

While Chicago reformers tried to deal with many of these problems, and progressives such as Illinois Governor John Peter Altgeld and Clarence Darrow sought to eliminate the inequalities of the legal system, Landis struggled to get his law practice off the ground. In truth, despite a sincere concern for the plight of the working class, he had little interest and less time for reform efforts. At twenty-eight, he harbored ambitious goals and focused all of his energies on achieving them. Step one in his master plan was

to establish himself as a successful lawyer. Thus, he accepted the system as it was, left reform to others, and sought a special place for himself within Chicago's legal community[9]

While experiencing great difficulty in finding sufficient work during the rest of 1895, Landis agreed to take a position which seemed to offer him an outstanding opportunity. Still in good favor with the Cleveland administration, he was offered an appointment as a "Special Assistant to the Attorney General of the United States for the Northern District of Illinois, to appear on behalf of the Government in the prosecution of the Beef Trust or Combination at Chicago." Technically under the auspices of the department of justice, he actually worked closest with Secretary of Agriculture J. Sterling Morton, who had specifically requested Landis' participation in the case. Morton remembered and liked Landis from cabinet meetings and other activities in Washington and believed that the young man possessed the intelligence and energy necessary for the position. His assignment was to direct the federal investigation into alleged violations of the Sherman Antitrust Act by the leading beef producers in the country, all headquartered in Chicago. This amounted to a daunting task, since, during the five years of its existence not a single trust had been successfully prosecuted under that law. Landis, however, jumped at the chance. Armed with self-assuredness, ambition, and a firm conviction that the meat packers had violated the law, he saw the chance to be the first government official to break up a national trust. If successful, he could quickly earn a national reputation which would, in turn, result in more and better legal cases, stronger political contacts, and, eventually, the federal judgeship he so coveted. Not for a moment,

moreover, did he consider the difficulties involved with the job or doubt that he would be victorious.[10]

Sworn in on December 31, 1895, he immediately set to work. On January 3, he met with the press and explained that an investigation was beginning and that the leading meat packers and other witnesses would be summoned in due course. The packers, anticipating such an announcement, instantly indicated that they would not cooperate or respond to summonses to give testimony which might be used to indict them. Other problems quickly emerged. United States District Attorney for Chicago, General John C. Black, was expected to prosecute the case based on the evidence Landis accumulated, but he showed little enthusiasm for such a task. The other members of the team were Colonel J.M. Heiskell, a Special Inspector of the department of justice, and Edward Sheldon, on loan from Secretary Morton and the department of agriculture. Both of these men operated ostensibly under the authority of Landis, but also answered to supervisors from their respective departments, bosses to whom they owed more allegiance than to Landis in his temporary position. Sheldon proved to be loyal and reliable throughout the investigation. As early as January 7, however, after reading the Chicago newspapers, Morton warned Landis, "It seems to me that Col. Heiskell is giving altogether too much to the newspapers . . . there is no game secured by hunting it with a brass band."[11]

The written instructions Landis received from the justice department were rather vague (as was the Sherman Act itself), merely reciting the text of the law and quoting examples from Blackstone to illustrate particular points. At the request of Landis, Morton succinctly clarified the issues. The big producers, such as Swift, Armour, and Morris, it

was believed, depreciated the cost of livestock in the markets by having all but one member of the combine refrain from buying cattle on some days. The purchased cattle were then divided among all of them, thus smothering competition and robbing "the beef producer on one hand and the consumer on the other." Morton also expressed his confidence in Landis, saying, "you now have an opportunity to win great praise from your friends and admirers and also to confer upon the general public a real blessing."[12]

Landis plunged into the case with all of the energy, intensity, and optimism which marked his early career. In 1892, one of his first cases had led him into an investigation of some of Philip D. Armour's cohorts who were accused of a conspiracy to manipulate the beef market. Due to this experience, he already knew where to go and who to see in Chicago. Racing around the city, he himself gathered much of the testimony that would be used to substantiate the accusations. He soon realized, however, that the beef trust was national in scope. Using the authority of his position, he hired special investigators who were sent throughout the country searching for evidence. In addition, he spent as much time on the beef case as he did on his regular practice, thus weathering financial hardship while waiting to be paid at the end of the investigation.[13]

Meanwhile, Colonel Heiskell continued to cause problems. Landis cut him out of the team when he acquired evidence that Heiskell was stealing government funds by obtaining and redeeming receipts for money never paid out. A friend at the federal courthouse disclosed this scheme to Landis, who immediately fired Heiskell and sent him back to Washington. "We may not get the Beef Trust into the penitentiary," Landis wrote Morton, "but if God is just, we will get Heiskell's hand out of the public treasury."

Morton passed the information along to President Cleveland, who checked into the matter and let Heiskell off with a reprimand and a warning. In March, Heiskell returned to Chicago, but Landis never again included him in vital matters of the investigation team.[14]

To further complicate matters, as he closed in on important evidence, Landis began to feel threatened by leaders of the meat-packing industry. Men hired by the packers approached his friends with words of warning; they intimidated his clients, forcing them to seek other lawyers; finally, they spoke directly to Landis, threatening to destroy any possibility of his future employment by the moneyed interests of Chicago. "In short," Landis reported, "I was warned to do what I can to dump the government side or else close my law office." Characteristically, he responded with belligerence, telling the beef representative, "that he would have to permit me to continue as the sole judge as to what clients are respectable enough for me to work for." He then assured Morton, that "such tactics will not have the effect of changing my attitude; on the contrary, these gentlemen have forced me into a position where I have everything to lose and nothing to gain by a failure of this prosecution." A few days later, the "gentlemen of the trust" took "a different tack," by promising Landis a position with the packers, "after this matter terminates." Before this incident, he had already considered dropping out, he told Morton, but now was afraid it would look as if he were "influenced." With his reputation at stake, Landis concluded that, "it would be very unfortunate for me personally, if we should quietly let the matter drop," and stubbornly persisted with the case.[15]

Moreover, Landis found himself working without, or even against the other members of the investigative team. Black, the expected prosecutor, grew cold to Landis

and privately accused the department of agriculture of stirring up trouble with unfounded accusations. Landis began to fear that Black sympathized with the meat packers and would prosecute half-heartedly--if he intended to do so at all. "No battle can be fought successfully," he told Morton, "when the General in command is constantly in consultation, or communication, at least, with the enemy." Landis also shared Morton's concern with a resurgence of leaks to the press, writing, "I agree with you perfectly about ducks and brass bands, but how on earth can I control the utterances of the District Attorney [Black], and a special examiner of the Department of Justice [Heiskell]?" Early in the investigation, Landis had used his influence with the various Chicago newspapers to elicit a promise to withhold from print information about the beef combine matter. "After that," he said, "and until Heiskell returned and Black commenced to talk, the papers kept still." To make things worse, at the end of March, Sheldon, the only trustworthy member of the team, was recalled to his normal duties in Washington.[16]

Despite all of the chaos, Landis believed that it would be possible to put together an indictable case by the time the grand jury met in Chicago on May 4. He recognized the impotence of the Sherman Act, sarcastically writing to Morton, "I do not believe the wise and patriotic men who drew the law intended that there should be a conviction under it." Still, he thought that a conspiracy to establish an "absolute monopoly in the trade and commerce in dressed beef product" existed and could be proven, although witnesses would not talk unless forced to by the grand jury. In any event, he did not believe that the Antitrust Act was the right law under which to try to prosecute and he was exploring other options. He refused, however, to seek "an indictment simply for indictment sake,"

concluding that, "if there is a fair prospect of convicting these men, in my opinion they should be indicted and brought to trial."[17]

After a thorough examination of the legal questions involved, Landis judged that he had found the angle he was looking for, telling Attorney General Judson Harmon, "I believe . . . that we have got them dead under the interstate commerce law." He repeated his estimation of the situation to Harmon, arguing, we "must abandon hope of proceeding under the so-called anti-trust law of 1890," because the government would be able to obtain an indictment, but not a conviction, which would serve merely to vindicate the meat packers. The advantages garnered by the combine, Landis decided, were based upon "transportation favors," and this made them vulnerable under the interstate commerce laws. This realization was a bit of a letdown for Landis, as convictions under the ICC laws would not carry nearly the same public impact as under the much-heralded Sherman Act, but in the heat of the battle, he wasted little time considering the effects of this changed situation. He secured reports and court decisions from the interstate commerce commission and raced against the clock to get his case ready by the time of the May 4 grand jury. Privately, he reiterated his intention to avoid the embarrassment of pursuing an indictment without a "fair prospect of conviction," but also hinted that this decision was not his to make.[18]

With time at a premium, Landis continued his pursuance of evidence with considerable energy and imagination. The entire case began to take on aspects of a cloak-and-dagger mystery as Landis planted operatives inside the business offices of the beef companies, hired law-school friends to serve as detectives, had key combine officials

tailed, and tried to serve subpoenas to elusive witnesses. One of the inside men, who signed his name only "B," wanted to quit when he grew afraid that his identity had been revealed, but Landis persuaded him to continue. Serving subpoenas presented the toughest problem, as officials and key employees of the packing houses sneaked into Chicago only when absolutely necessary, spending the rest of their time in Europe or Canada.[19]

In late April, Landis found he had still another boss to answer to, and, as the grand jury deadline approached, he was called to Washington to consult with ICC Chairman, W.R. Morrison. Already he had expressed frustration at Morrison's willingness to discuss the details of the case with the press, complaining to Harmon, "what he meant by starting this talk is utterly beyond explanation." His sense of futility increased in the capital when he spent six hours with Morrison discussing a "matter which I did not expect would require more than thirty minutes." After this meeting, however, Harmon met with Morrison and advised Landis to wait until the next grand jury, in October, before pursuing the case under the interstate commerce law. Harmon believed that, with the recent change in strategy, the delay would allow time for more thorough preparation and make it possible to serve subpoenas to those necessary witnesses.[20]

That left Landis with the somewhat humiliating chore of telling the press and public what had gone wrong. On May 7, the *Chicago Tribune* reported that Landis "seems to be chagrined over the failure of the Marshall to land the witnesses," as all but three men escaped the dragnet. "But," the paper added, "he manifests determination to persevere" and he indicated that the investigation was merely put on hold temporarily. Two days later, an undaunted Landis told the *Tribune* of his plans to resume the beef trust case with

the October 5 grand jury. "Attorney Landis is willing to admit the packers and the railroads out-generaled him by getting their men out of the country," a story related, "but at the present time he considers himself master of the situation."[21]

That summer, however, after some time away from the case, Landis developed a clear understanding of the laws of the country as they pertained to corporations. He became convinced that no "combination or conspiracy such as was evidently contemplated" by the Sherman Act existed. He told a friend, "I don't believe Swift, Armour and Morris generally speaking run their business with particular reference to maintaining a state of harmony with each other. I believe they have some kind of understanding or policy under which they do not uselessly cut each other's throats but as far as a general division of territory or profits is concerned I take no stock in it." In short, Landis was beginning to realize something that many others in the country had already concluded. He detested the trusts, believing that what they were doing was wrong, that their activities limited equal opportunity and democracy, and that monopolies put an unfair burden on the common man. He also, however, finally saw that the United States had no law as yet which forbade the operations of the corporate giants. The beef companies cooperated with each other, he was sure, but they did nothing which violated the technical letter of the Sherman Act. If Landis was going to win a conviction, if would have to be for relatively minor violations of the interstate commerce act, and not under the more headline-grabbing anti-trust act. Thus, by the end of the summer, Landis began to lose his enthusiasm for the case. For such a competitive man, settling for the lesser conviction was akin to admitting defeat, and if he could not win the game, he would rather not play at all.[22]

In the meantime, through the long winter and spring of 1896, Landis tried to keep his legal practice afloat while devoting the bulk of his time to the beef trust case. He continued to take on new cases and to collect debts for a percentage of the amount retrieved, but his business fell off due to the time constraints and the pressure applied to potential clients by the beef interests. To ease some of that pressure, he made peace overtures to Armour, but was careful to point out that the lack of evidence had caused the government to back off temporarily, not the intimidation tactics of the packers. Most of the cases he accepted paid little and, in April, he had to ask for the money owed him by the government for his services and for hundreds of dollars of out-of-pocket expenses. When the bureaucracy was slow in reimbursing him, he was forced to wire Washington, stating, "it will very seriously embarrass me personally if check does not come." In addition, new expenses arose as he tried to establish himself within the local legal community. He joined the Legal Club of Chicago and the Chicago Bar Association before fulfilling a long-time ambition by being accepted as a member of the Calumet Club, the same organization whose headquarters he had sadly watched burn nearly four years earlier. This club, a gathering spot for the most important business and society men in the city, charged a one-hundred dollar initiation fee and eighty dollars annual dues, a considerable outlay for a man of his limited earnings. He believed that such associations would help him attract potential clients, however, and began a recurring habit of trying to live just slightly above his means.[23]

In June, Landis met Harmon and Morrison in Washington to discuss the beef combine case. They agreed that a case pending against the Santa Fe Railroad might have

some bearing on their litigation and that they would wait until that case was decided before proceeding with the beef matter. Landis interpreted this to mean that his involvement with the case was suspended indefinitely, and he plunged into other activities.[24]

When the beef trust case did not seem to be turning out the way he had hoped, Landis reverted to an area with which he was more familiar: politics. He realized that he needed stronger political allies in Chicago if he was to one day receive a judicial appointment from that district and he decided to remove all question as to his party allegiance. As the 1896 presidential election heated up, a reporter inquired about his political affiliation, saying, "You are a Democrat, are you not?" "No," returned Landis, "since I have severed connections with the Cleveland administration, I've been a life-long Republican." Despite his temporary--and opportunistic--dalliance with the Democrats, then, his heart remained with the GOP. He cared little for either candidate in 1896, but he supported the Republicans primarily because of their monetary policy. With several lengthy cases coming up in September and October, he persuaded the judges involved that the deliberations should be continued until after the election. In early September he wrote a friend, "I will be pretty busy from the middle of this month until the first of November taking my neighbors into my confidence on the currency question." From then until the election, he hustled around the Chicago area, giving speeches on the silver issue, and trying to forget about the unpleasant experience of the beef trust investigation.[25]

In mid-November, however, Harmon surprised Landis by telling him to prepare to take the beef case before the grand jury. Landis replied that he had been told to wait for a resolution in the Santa Fe matter, and that litigation in that case had been postponed.

Therefore, he believed he was still unable to take action against the beef companies and had now become deeply involved with his cases which had been continued during the fall campaign. He added that he still had an interest in the case, but his other engagements made his participation impossible. Harmon explained that the time was now or never, as far as the beef trust prosecution was concerned, because the next grand jury would not meet until after his term in office had ended. Further, despite repeated assurances that an indictment for its own sake would not be pursued, Harmon expressed his determination to "go on with the case in spite of anything and everybody." The attorney general concluded by saying he understood Landis' predicament, but he still wanted him involved because Landis had prepared the case and his absence might "be construed as a disapproval of my course by you, or as dissatisfaction by me with you."[26]

A stunned Landis expressed his bewilderment to Morton, asking, "Has the Attorney General of the United States gone Crazy?" He explained his side of the story, and spelled out the impossibility of his participation along with the absurdity of the situation. "I have read and reread his letters," he wrote, "and for the life of me I can't reconcile them with any theory of sanity." All of the frustration of the year-long case poured out as Landis continued his tirade, saying, "He pulled me off once when, as he himself expressed it to Col. Morrison, I 'had the trap pretty well set' and made me ridiculous and a mark for many very unfriendly criticisms--newspaper and otherwise--in Chicago, and I don't propose to give him the opportunity to do it again." In May, Landis had believed the case was ready to go under the interstate commerce law, but nothing was done and "too many lines have become loosened and gotten away during the months that have passed since

then." He now wanted nothing to do with the case, arguing "it seems to me preposterous to proceed as Mr. Harmon has requested."[27]

Morton, obviously amused by the thought of this brash young lawyer speaking in such a tone about the leading law-enforcement officer in the country, responded, "Not being an expert as to mental maladies, I can not answer your startling interrogation as to the sanity of the Attorney General of the United States." He, however, shared Landis' frustration with the case, especially the lack of communication between the departments of justice and agriculture and the interstate commerce commission. "What he [Harmon] has done," he wrote, "what he may do, what he can do, what he ought to do--are questions beyond my power of solution." Morton took the opportunity to condemn the entire District of Columbia for "an epidemic of mendacity" and to express his desire to leave there as soon as possible.[28]

Landis, too, was fed up with his involvement with the federal government. He decided that he wanted no future in the justice department and withdrew from the beef case, thus burning an important bridge of opportunity behind him. The investigation of the packing interests had been a bitter and embarrassing experience for Landis, but an educational one. His low-level position in the case left him with almost no authority and subjected him to the whims of three separate bosses, Harmon, Morrison, and Morton, all working at cross purposes with little or no communication. He had worked extremely hard in putting the case together, yet the Justice Department took no effective action and nothing had come of it. Worst of all, his reputation, his practice, and his standing with the important people of Chicago had suffered, rather than being enhanced, by his

association with the investigation. He walked away from the case more convinced than ever that a federal judgeship was the only career that could make him happy. Such a position offered the prestige he sought, a comfortable income, and the security of a lifetime appointment. Most important, a federal judge had no direct bosses--no Morrison looking over his shoulder, no Harmon pulling the rug out from under him.

Landis' action in this case, while understandable from his point of view, also illustrates some of the character flaws he had developed in his first thirty years. He had not personally achieved much of note, yet he possessed the ego of someone who had accomplished a great deal. He had hoped to become the first man to successfully prosecute one of America's hated trusts, and, in his mind, the conviction was assured the moment he agreed to take the case. As reality set in, however, and he encountered one set-back after another, he grew bored with the investigation and began looking for an excuse to drop out. He believed that anything less than an anti-trust conviction would be construed as a defeat and he would not tolerate any defeats at this stage of his career. Thus, when Harmon ordered him to delay, Landis saw this as his opening and effectively--though unofficially--withdrew from the case, giving his full attention to politics and his legal practice. Ordered to take the case to trial, Landis blamed everyone else for his lack of preparation, refusing to acknowledge that he, by his neglect, was responsible for the "trap" becoming unset and the "lines" becoming loosened. During the fall of 1896, his ambition had led him to try to do too much and he wound up doing none of these things well.

As 1896 drew to a close, moreover, other, more pressing matters occupied his time and contributed to his decision to quit his position as special assistant. He had slighted his practice for nearly a year due to the requirements of the beef investigation and his political efforts. Also, his first child, Reed Gresham Landis, was born in July, adding to the family burden. As a result, financial problems approached the crisis level. In late November, the utility company threatened to shut off his gas, prompting Landis to promise payment within a few days and to write, "I would send you a check herewith but the truth is my bank account is just about balanced. I don't want you coming around monkeying with my gas meter. It will do you no good and will do me great harm." He also had to borrow small amounts from friends, telling one, "it is a terrible thing--this being hard up."[29]

To make matters worse, his health was failing. In September, the sewers overflowed into his cellar giving Landis a fever and driving the family out of the apartment. With his hectic schedule and tendency to overwork himself, the illness lingered and worsened. Further, he suffered from insomnia and failed to recover even when confined to bed. On his thirtieth birthday, in November, he reported that the doctor "has taken nearly all of my work away from me and he tells me it will be several months before I can hope to be able to do a man's work." Out of necessity, however, he continued to work long hours and broke down again in December, leading a friend to warn him, "you must rest, you must put a curb on your impetuous nature, and save your nervous energy." Finally, in the spring of 1897, he broke down completely and was confined to bed for five weeks. He recovered his health during this hiatus, but continued to worry about his worsening financial condition.[30]

By January 1897, Landis had nearly given up hope of establishing himself in Chicago. "Business here is not what it should be," he told a friend, and as the depression persisted, he sought creative ways to build his clientele. Again calling on his state department contacts, he wrote to a Chinese official whom he knew in Washington and tried to drum up legal business within the Asian community of Chicago. When that plan failed, he explored the idea of moving to New York City. He seriously considered a "very flattering offer" from contacts there, but ultimately declined, not wanting to live so far from his mother, who's health was in decline.[31]

The new year, however, seemed to bring a change in his fortunes. In the first few months of 1897, economic indicators began to show improvement and the lengthy depression slowly faded away. In addition, his contacts within the legal community began to pay off and Landis started receiving references from men he had met through his bar and social organizations. He also found a more lucrative source of income, as he began to serve as collector of defaulted loans for several banks. This was not the sort of glamorous work that he desired, but he made more than three-thousand dollars from bank collections alone during that year. Despite this upswing in his fortunes, he still struggled to get out of debt and continued to look for other ways to improve his practice.[32]

Toward this end, Landis formed a partnership with two nationally known attorneys. Among the friendships Landis established while in Washington were those with two first assistants to cabinet officers. Frank H. Jones worked under the Postmaster General and Edwin H. Uhl served with Landis in the State Department. Before that, Uhl had been a prestigious lawyer, a bank president for twenty years, and a two-term mayor of Grand

Rapids, Michigan. After Gresham's death, he retained his position in the State Department and, in February 1896, was appointed ambassador to Germany. Landis and he became friends while working together and continued to communicate while Uhl was in Berlin. In May 1897, as he was about to relinquish his post in Germany, Uhl confided to Landis that his law practice was "badly shattered" as a result of a four-year absence and the declining nature of the Michigan lumber business, which had formed the nucleus of his practice. He hinted that he might be moving to Chicago with the possibility of forming a partnership with their mutual friend, Jones. Whether Landis was invited or simply talked his way into this partnership is unclear, but by August, the letterhead of the new enterprise read: "Uhl, Jones, and *Landis*."[33]

"The new firm starts out with every prospect of success," Landis wrote a friend with his usual confidence. He had leapt at the opportunity to work with these two prominent attorneys, despite his fierce individualism and his aversion to law partnerships of any size. He had reason, moreover, to be enthusiastic about the probability of the firm's success. The depression had ended, his business was expanding monthly, and the addition of Jones and Uhl could only enhance his prospects.[34]

Already, however, signs had appeared which indicated that it might not work out. Preparation of the office began in August and continued into September while Landis and Jones went on vacation and Uhl tended to the illness of his brother-in-law. This relative soon died, and Uhl spent weeks moving his widowed sister from Colorado to his house in Grand Rapids. Two months later, Jones and Landis were hard at work, but Uhl had yet to make his first appearance in Chicago.[35]

Landis was listed as the junior partner of the firm, but in most respects was treated as an equal. The office opened in mid-September with all costs and income split three ways. This arrangement favored Landis, as his name would bring in fewer wealthy clients than his more distinguished partners, yet he would receive an equal share of the profits. It never quite worked out this way, however, as Uhl spent much more time in Grand Rapids than he did in Chicago. Finally, in June 1898, he went to Michigan for the summer and never returned. He still paid his bills and office expenses, but he also accepted his share of the income and never became the sort of client-attracting presence for which Landis had hoped. By the end of 1898, they had dissolved the partnership, with Uhl remaining in Grand Rapids and Jones taking a position with a prominent Chicago bank. Asked what had happened to the firm, Landis joked to a friend, "Oh, nothing much; I just fired the senior partners and moved to another office."[36]

The partnership may have folded, but Landis was over the hump as far as his law career was concerned. His association with Uhl and Jones, the references he received from a growing circle of Chicago contacts, and the successes he enjoyed in the courtroom all helped to improve his fortunes considerably. By late 1898, a steady stream of well-paying clients found their way to his office, and the breakup of his partnership did little to hurt his business. Once he obtained these clients, moreover, he had little trouble winning cases, as his courtroom skills improved along with his ability to reduce complicated legal issues to a simple, easily understood level. Here, again, he used folk logic and his knowledge of Lincoln's legal methods to create metaphors or anecdotes which presented the case in a way which convinced the judge or jury that his way of

looking at the issue was the correct one. "I will say that for me personally," he was able to write to his uncle, "things in a business way are looking up. I believe that after many years of hard fighting I have about gotten to a point where matters will come easier."[37]

While still a partner to Uhl and Jones, Landis began to specialize in the defense of transportation companies against personal injury complaints. With fortuitous prescience, he recognized the defense of railroads and public transit companies against tort claims as a growing field with unlimited potential for an ambitious young lawyer. Chicago of the 1890s was still undergoing the transition from horses to cable cars when electric trains became available, leaving the area a tangle of competing systems without coordination, signals, pedestrian rights, or traffic cops. To get from one area of the city to another, riders often had to change vehicles several times while coping with the heavy congestion of delivery wagons and private carriages. Railroad trains also criss-crossed the city, usually at ground level, killing dozens of people each year. Accidents, complaints, and lawsuits were plentiful as the city jerked in fits and starts from one public transportation system to another while shady entrepreneurs such as Charles Tyson Yerkes and Samuel Insull lined their pockets in the process of bringing order from the chaos.[38]

Landis saw tremendous potential in this situation, and, ever mindful of which side could best help his career, chose to represent the transit companies rather than the injured parties. Of course, this move required him to bend his principles in regard to corporations, but it was a compromise he was willing to make at this particular stage in his life. Almost desperate to become successful, he overlooked his lifelong animosity toward big companies and pursued their business as a last-ditch effort to save his legal

career. He rationalized this concession by arguing that working as a corporation lawyer "was merely an opportunity for acquiring information" which would serve him well when he became a judge. Thus, he convinced himself that this was just another step in his training for a judgeship rather than the compromise of his principles which it actually was. Always an opportunist, he still hated corporations, but was willing to take their money and defend their interests if doing so would help him achieve his goals.[39]

In typical Landis fashion, he did not wait for these clients to come to him, but instead, aggressively went after their business. He first approached the Calumet Electric Street Railway Company offering to appeal a case which they had already lost. He had seen the trial and believed that the plaintiff, Mary Cheyne, had fraudulently fooled the court into thinking she had suffered severe injuries in connection with one of the company's cars. The courts had awarded the woman $12,000 in damages, but Landis convinced the company that he could have the decision overturned. In language usually reserved for face-to-face conversations, he expressed his confidence in the case, writing to his brother, "I have got this prostitute deadern a smelt. She turns up with a worse record than any slut that was ever limbered up. . . . The court is going to give me a new trial and if my people will permit it I will send Cheyne, her husband, and the Doctor to the penitentiary." He obtained his new trial, during which the woman, according to Landis, "came into court leaning heavily on a cane, assisted on either side by a stalwart woman attendant and flanked on all sides by doctors and half a score of members of the Eastern Star Lodge." He added that, "on the witness stand she cried and gasped and lost her breath and swooned and begged for water, but she overdid the thing." Landis proved

that Cheyne had perjured herself and that she had made similar claims in Detroit in league with a common-law husband and a disreputable doctor. The court accepted his case and the original verdict was overturned. With this dramatic victory, the transit companies of Chicago began clamoring for Landis' services, and his career was finally on solid ground.[40]

During the next few years, he built upon this foundation, adding other transportation companies to his practice. He represented the Calumet company on a regular basis after the Cheyne case, receiving a variable but always sizable monthly payment for his services. He still represented other clients--even taking one case to "Justice Fuller's Court," in Washington--but gradually dropped the collection end of his practice in favor of the more lucrative transit-company cases. Between 1899 and 1905, he took on representation of the Chicago and Eastern Illinois Railroad, the Chicago Union Traction Company, and the Chicago Consolidated Traction Company, but his biggest coup was in gaining the business of the Chicago office of the Grand Trunk Railroad. In 1901, when Landis heard of an impending merger involving the legal departments of the Grand Trunk and several smaller railroads, he carefully plotted his move, obtained letters of recommendation from prominent members of the legal profession, and sold himself to the company.[41]

As the twentieth century opened, then, Landis earned a comfortable, though not exorbitant, living from his legal practice. Through hard work and perseverance he had carved out his niche in the Chicago legal community and built himself into a highly regarded lawyer. The Calumet Company continued to supply the highest single amount

to his income, ranging from $2700 to $5600 a year, but beginning in 1901, the Grand Trunk kept him on retainer for a flat annual salary of $2500. All told, from 1899 to 1905, Landis probably earned between $7000 and $10,000 annually, with about $2000 of that spent on his office and other expenses. He sometimes embellished these amounts when talking to friends and relatives, as one brother reported Landis as "having the fattest fees of any lawyer in Chicago." In addition, he seemed to regard the corporation cases as being relatively easy, saying, "My work is nearly all trial business, which comes to me pretty well prepared, and such assistance as I am obliged to have outside of that has been arranged for."[42]

There were signs, however, that he was not completely satisfied with the path his career had taken. In 1900, he told a friend, "it is serious business, this thing of practicing law. In truth, it is about what old Sherman said war was." Three years later, he used another Civil War analogy to describe his relief upon quitting one of his corporations, writing, "When President Lincoln issued his proclamation the colored race could not possibly have experienced the sense of emancipation from bondage that I have enjoyed since January first. On that date, my connection with the Eastern Illinois road ceased." Finally, by February 1905, his work with the Grand Trunk had become nearly intolerable. "I am being bossed by about fifteen superior officers," he exaggerated to a friend, "section hands, trainmen, and even division superintendents give me instructions. The orders come so thick and fast at times, from so many different directions, that I am at a loss frequently to know to whom I should render obedience first."[43]

At the same time he struggled with his career, Landis's personal life offered both solace and an additional set of problems with which he had to contend. The family suffered through the usual childhood illnesses and inconveniences, but Landis kept his sense of humor, once telling his brother, "considering the fact that I have got the grip, that the little girl has the colic, and that four days ago three doctors cut off the end of the boy's penis, we are feeling very comfortable at our house." With two small children, Landis and Winifred were not able to travel as much as they were accustomed to doing. Thus, when they were unable to go to Logansport for Reed's first Christmas, he explained, "we have about decided to keep him at home until he is big enough to buy the tickets and check the trunks." A few Christmases later, they invited the neighbor kids to spend the day with them, and Landis told a brother, "they nearly tore the building from the foundation and since that time we have had a doctor reasonably busy trying to disassociate our kids from the evil effects of too much candy." The children could get into the usual mischief as well, forcing Landis to apologize to a family friend, "I have just sent you a package by registered mail, being the contents of your pocket being extracted therefrom by my daughter last evening, under the so-called mistaken notion that she was going through her father's clothes."[44]

Landis enjoyed parenthood, although he felt that two children were enough for anyone. In an exasperated moment he said to his brother, "I wonder how on earth father ever got along with seven kids; my hands are full with two." He once explained his personal family philosophy, writing, "I think the family is just now about right. In a big town like this, a man who has a son and a daughter and gives them the kind of care they

have, has I believe discharged his duty to society." He added that, amid the "changed social and economic conditions," bringing up children in Chicago, "with all of the influences and considerations to be contended with in such a city," posed innumerable hazards with which their parents did not have to deal in Logansport. He was close to his children, spent as much time with them as his busy schedule allowed, and exchanged letters with them when he was away. Their childhood drawings and scribbled notes often decorated the walls of his judicial chambers, hung there with parental pride.[45]

As much as he loved Chicago, he occasionally felt overwhelmed by it. Writing to an old friend from Cass County, he once said, "it occurs to me every day that a man who had a chance to live down there, and deliberately took up residence in Chicago, ought to have a guardian appointed." He also told a relative, "I have gotten into a frame of mind where I believe I would be perfectly happy away from the whole world and the population thereof. This town here is (I have made up my mind) a frightful place for folks to live." Despite these misgivings, Landis realized that his heart and future were in Chicago, and that he would have to content himself with periodic vacations in more pastoral settings.[46]

Landis believed in the therapeutic effects of vacations and took at least one lengthy hiatus from work every year. Gresham's death reinforced the idea that rest was vital to a long and productive life. He often warned friends--especially elderly ones--about the dangers of overwork, using Gresham as an example of what could happen. "We can do more work in eleven months--year after year--than we can in twelve--and I believe that eleven months will give us more years," he told foreign-policy expert John Bassett Moore, adding, "after this year I propose to allow nothing to deprive me of a month or six weeks

absence from work each summer." Starting in 1897 and continuing for about eight years, he transported his family and friends to Star Lake, Wisconsin, four hundred miles north of Chicago, just below Lake Superior. There he relaxed amid the numerous lakes and "good pine air," telling his brother, "wherever you find the white pine, there is no malaria." After that, he spent his summers at Burt Lake, in Michigan, eventually building a permanent cottage there.[47]

Fishing in northern Wisconsin or Michigan topped the list of Landis' leisure activities. In addition to providing competition and good sport, fishing relaxed him. "I feel like a new man," he once wrote after a two-week fishing expedition; he would plan his trips months in advance in order to give the fish some time "in which to train for the contest"; he waxed poetic over the joys of battling a huge muskellunge, "a most ferocious fish"; he created mock "Scripture" when trying to recruit fellow fishermen, writing, "Greater love hath no man than this, that he point out his fishing hole to his friends." On occasion, he also played tennis, and admitted to trying to take up the bicycle again, "but the saddle nearly killed me, and I don't care for any more of it." His most unique hobby, however, was his collection of gavels. He made no secret of his desire to one day become a judge, and by 1905, he had accumulated more than a dozen of the judicial instruments, some of which were unusual, others of which had belonged to famous men.[48]

He liked to read in his spare time, gravitating toward biographies, mysteries, and detective stories. These simple stories fit the way in which he wished to see the world. The biographies of the day told the stories of men who overcame intimidating odds to achieve greatness by applying high moral principles to the task at hand. The mysteries

which he read, and attended in dramatic form, portrayed a black and white world in which good always triumphed over evil. In these dramas, the miscreant committed crimes which threatened social order and security, while the detective-hero sought to solve the mystery and set the world right again. Landis, like most readers, related to these detectives and may also have dreamed of assuming a similar role once he obtained his hoped-for seat on the bench.[49]

By early 1905, Landis had survived the worst stretch of his public career. He had withstood the death of his best friend, a major economic depression, personal financial crises, a disastrous venture with the Justice Department, an unsuccessful law partnership, and serious health problems. Having come through all of that, he was now on fairly stable ground with his career, earning a comfortable living, with high-paying clients seeking his services. This did not satisfy him, however. He was tired of playing the role of the assistant, the junior partner, or the subservient lawyer subject to the demands of a myriad of bosses. He wanted to be in charge. Thus, a federal judgeship, to Landis, represented freedom above all else. From 1895 to 1905, while he struggled to build up his public career, he quietly worked behind the scenes to achieve that freedom.

Notes

1. KML to Don Matias Romero, 16 September 1895, KML-CHS, 75-549.

2. KML to Richard Olney, 26 June 1895, KML-CHS, 75-549; *Chicago Tribune*, 1 May 1896; KML to "Mr. Parks," 9 December 1898, KML-CHS, 76-538; KML to John Bassett Moore, 9 October 1895, JBM-LC. Moore never wrote the biography, but in 1919, Gresham's son, Otto, produced a biased account of his father's life under the name of the Judge's wife, Matilda. Gresham, *Life of Walter Quintin Gresham*.

3. *Chicago Tribune*, 12 April 1893, 21, 28 July 1895; lease agreement, 16 April 1895, KML-CHS, 30-318; *The World's Work* 11 (November 1905 to April 1906) : 7466; *New York Herald*, 7 July 1907. Upon leaving Washington in 1897, Eckels assumed the duties of President of the Commercial National Bank, in Chicago. Always looking ahead, Landis had an escape clause put into his lease whereby it would be nullified should Gresham leave office for any reason during the terms of the agreement.

4. KML to J.C. Gerndt, 10 October 1895, KML-CHS, 75-549; KML to E.L. Goldthwaite, 4 May 1896, KML-CHS, 75-536; KML to Walter K. Landis, 23 July 1896, KML-CHS, 75-536; KML to Fred Landis, 6 August 1896, KML-CHS, 75-536; KML to Southard and Trainor, 2 April 1897, KML-CHS, 75-550; *Who's Who in Chicago* (Chicago: A.N. Marquis Co., 1931), 565; Kendall, "Landis"; KML to People's Gas, Light, and Coke Co., 22 November 1901, KML-CHS, 77-535; *Lakeside Directory of Chicago*, 1902-1905; KML to Commonwealth Electric Co., 11 May 1907, KML-CHS, 80-546.

5. KML to John Bassett Moore, 24 June 1895, JBM-LC ("prospects are bright"); KML to Moore, 14 August 1895, JBM-LC; KML to Edwin F. Uhl, 24 June 1895, KML-CHS, 75-549; KML to John P. Hand, 12 July 1895, KML-CHS, 75-549; many misc. business letters, KML letterbooks, KML-CHS, 75-536, 75-549; Ginger, *Altgeld's America*, 19-22.

6. Hall, *Magic Mirror*, 212-13; Bloomfield, *American Lawyers in a Changing Society*, 342-43, 346-47; Wayne K. Hobson, "Symbol of the New Profession: Emergence of the Large Law Firm, 1870-1915," in *The New High Priests: Lawyers in Post-Civil War America*, edited by Gerald W. Gawalt, (Westport, Conn.: Greenwood Press, 1984), 3-22.

7. KML, interview with Ben Ezra Kendall, *Chicago Tribune*, 20 November 1916. He decided to go it alone just at a time when independent lawyers with a general practice were finding it increasingly difficult to compete with the large firms. The president of the Chicago Bar Association stated that he knew many men who left the profession for more lucrative pursuits, and that he doubted if half the lawyers in the city were earning a living. Independent lawyers who thrived generally found work with the corporations, or even formed corporations by consolidating many small businesses, as did Landis' friend, Frank O. Lowden. Lowden organized 138 previously independent bakeries into the National Biscuit Company, which controlled ninety percent of the commercial biscuit making in the nation. He also reorganized the American Radiator Company and merged it with three competitors, thus controlling seventy-five percent of that market. Ginger, *Altgeld's America*, 238-41.

8. Ginger, *Altgeld's America*, 23-34, 210-11, 244; Robert J. Casey, *Chicago Medium Rare* (New York: Bobbs-Merrill, 1949), 47, 49, 54, 111, 299-303; Henry Justin Smith (Part 1 of this book by Lloyd Lewis), *Chicago: The History of Its Reputation* (New York: Harcourt, Brace, and Co., 1929), 189-96, 228.

9. Ginger, *Altgeld's America*, 209-10, 221-29, 241.

10. Holmes Conrad, acting Attorney General, to KML, 27 December 1895, KML-CHS, 33-363; KML to Holmes Conrad, 31 December 1895, KML-CHS, 75-536; J. Sterling Morton to KML, 2 January 1896, KML-CHS, 33-363; *Chicago Tribune*, 1 January 1896; *Chicago Evening Journal*, 3 January 1896. To further complicate matters, Landis was paid by a third department, the Interstate Commerce Commission. *Annual Report of the Attorney General of the United States, 1896* (Washington: Government Printing Office, 1896), 116. In this same report, Attorney General Judson Harmon expressed the opinion that previous court decisions involving the sugar trust and other monopolies had restricted the use of the Sherman Act to such an extent that amendments to this law would be necessary "if any effective action is expected from this department." He further indicated that funds allotted for the prosecution of such cases were "wholly inadequate" to accomplish much good. Harmon quoted, xxvii. Harmon's predecessor, Richard Olney, also complained that the Justice Department was underfunded and that special prosecutors were paid terribly by the government. Eggert, "Richard Olney," 204-05.

11. *Chicago Tribune*, 4 January 1896; J. Sterling Morton to KML, 7 January 1896, KML-CHS, 33-363.

12. Department of Justice to KML, written instructions on investigation of the beef combine, no date, KML-CHS, 45-477; J. Sterling Morton to KML, 2 January 1896, KML-CHS, 33-363.

13. Harper Leech and John Charles Carroll, *Armour and His Times* (New York; D. Appleton-Century Co., 1938), 275; J. Sterling Morton to KML, 8 February 1896, KML-CHS, 33-363; KML to J. Sterling Morton, 13 March 1896, KML-CHS, 75-536. Landis' business letters in January and February 1896 are about evenly split between his private practice and the beef case. Letterbook, KML-CHS, 75-536.

14. KML to J. Sterling Morton, 27 February 1896, enclosed with a letter, J. Sterling Morton to Grover Cleveland, 29 February 1896, Grover Cleveland Papers, microfilm copies, series 2, reel 93; KML to J. Sterling Morton, 17 March 1896, KML-CHS, 75-536.

15. KML to J. Sterling Morton, 13, 17 March 1896, KML-CHS, 75-536.

16. KML to J. Sterling Morton, 17 March 1896, KML-CHS, 75-536, 26 March 1896, KML-CHS, 33-363.

17. KML to J. Sterling Morton, 17 March 1896, KML-CHS, 75-536.

18. KML to Judson Harmon, Department of Justice, 2 April 1896, KML-CHS, 75-536 ("got them dead," "so-called anti-trust law"); KML to J. Sterling Morton, 11 April 1896, KML-CHS, 75-536 ("fair prospect"); KML to Judson Harmon, 16 April 1896, KML-

CHS, 75-536; KML to W.R. Morrison, Chairman, I.C.C., 10 April 1896, KML-CHS, 75-536; W.R. Morrison to KML, 13 April 1896, KML-CHS, 33-363.

19. KML to Judson Harmon, 16 April 1896, KML-CHS, 75-536.

20. KML to Judson Harmon, 16 April 1896, KML-CHS, 75-536 ("utterly beyond explanation"); Henry L. Bryan to KML, 23 April 1896, KML-CHS, 4-49; KML to Henry L. Bryan, 25 April 1896, KML-CHS, 75-536 ("thirty minutes"); Judson Harmon to KML, 25 April 1896, KML-CHS, 33-363.

21. *Chicago Tribune*, 7, 9 May 1896.

22. KML to Major W.W. Catlin, 7 August 1896, KML-CHS, 75-550.

23. Ibid.; many letters pertaining to his legal practice, 1896, KML-CHS, letterbooks 75-536 and 75-550; Receipt to the Columbia Distilling Co., 1 April 1896, KML-CHS, 75-536; KML to Judson Harmon, 2 April 1896, KML-CHS, 75-536; KML to Frank Strong, Department of Justice, 13 April 1896, KML-CHS, 33-363; Tele., Frank Strong to KML, 15 April 1896, KML-CHS, 33-363; KML to Oliver Brown, 21 February 1896, KML-CHS, 75-536; Official notice from the Chicago Bar Association, 21 September 1896, KML-CHS, scrapbook no. 5, microfilm page 0813; KML to Henry T. Thurber, 4 November 1896, KML-CHS, 75-550; *Chicago Tribune*, 18 January 1893. Later, he also joined the Chicago Club, another somewhat elitist social organization, paying a $200 initiation fee and $26.67 annual dues. Official notice from the Chicago Club, 30 January 1899, scrapbook no. 5, microfilm page 0813.

24. KML to Edgar Madden, 9 June 1896, KML-CHS, 75-536; KML to Judson Harmon, 14, 18 November 1896, KML-CHS, 75-550.

25. Lewis, "Judge Landis," 33 ("life-long Republican"); KML to Judson Harmon, 14 November 1896, KML-CHS, 75-550; KML to H.V. Boynton, 9 September 1896, KML-CHS,75-550 ("currency question").

26. KML to Judson Harmon, 14, 18 November 1896, KML-CHS, 75-550; Judson Harmon to KML, 20 November 1896, KML-CHS, 33-363 (both quotes).

27. KML to J. Sterling Morton, 21 November 1896, KML-CHS, 33-363.

28. J. Sterling Morton to KML, 28 November 1896, KML-CHS, 33-363.

29. KML to Mutual Fuel Gas Co., 27 November 1896, KML-CHS, 75-550 ("I would send you a check"); KML to "My Dear Old Man" (no name given), 13 February 1897, KML-CHS, 75-550 ("this being hard up").

30. KML to Lyman P. Walter, 23 September 1896, KML-CHS, 75-550; John H. Landis to KML, 25 October 1896, KML-CHS, 48-512; KML to Judson Harmon, 14 November 1896, KML-CHS, 75-550; KML to "Mr. Blum," 20 November 1896, KML-CHS, 75-550 ("man's work"); George A. Funkhouser, to KML, 14 December 1896, KML-CHS, 28-277; Frank J. Kieckhoefer to KML, 21 December 1896, KML-CHS, 29-299 ("You must rest"); KML to Thomas W. Cridler, 19 April 1897, KML-CHS, 75-550.

31. KML to M.Y. Chung, 7 November 1896, KML-CHS, 75-550; KML to Frank H. Brooks, 5 January 1897, KML-CHS, 75-550 (both quotes).

32. KML to John C. McKeon, 8 April 1897, KML-CHS, 75-550; KML to Joseph G. Heim, 22 June 1897, KML-CHS, 75-550; KML to James B. Nelson, 23 June 1897, KML-CHS, 76-538; KML to O. Straus, 24 June 1897, KML-CHS, 76-538; KML to John H. Landis, 10 August 1897, KML-CHS, 76-538; KML to John C. McKeon, 4 October 1897, KML-CHS, 76-538; KML to Joseph G. Heim, 14 October 1897, 30 November 1897, KML-CHS, 76-538; KML to Frank L. Richardson, 1 December 1897, KML-CHS, 76-538. The banks involved were: the National Bank of Illinois at Chicago, the 1st National Bank of South Bend at Washington, and the American National Bank of New Orleans.

33. *National Cyclopedia of American Biography*, v. 15, 100; *Chicago Tribune*, 2 January 1896, 14 February 1896; KML to David E. Uhl, 22 June 1896, KML-CHS, 75-536; Edwin F. Uhl to KML, 23 June 1896, KML-CHS, 62-606; Edwin F. Uhl to KML, 29 May 1897, KML-CHS, 62-606 ("badly shattered"); KML to Edwin F. Uhl, 30 August 1897, KML-CHS, 76-538.

34. KML to Ned Savoy, 11 October 1897, KML-CHS, 76-538.

35. Edwin F. Uhl to KML, 30 August 1897, KML-CHS, 62-606; KML to Uhl, 30, 31 August 1897, KML-CHS, 76-538.

36. Frank H. Jones to Edwin F. Uhl, 21 February 1898, KML-CHS, 76-538, 19 September 1898, KML-CHS, 76-539; Uhl, Jones and Landis to Uhl, 1 December 1898; *The Lakeside Annual Directory of the City of Chicago*, compiled by Reuben H. Donnelly (Chicago: The Chicago Directory Co., 1900), 989; Kendall, Landis interview, *Chicago Tribune*, 20 November 1916 ("fired the senior partners").

37. KML to Charles J.S. Kumler, 12 January 1898, KML-CHS, 76-538 ("I will say").

38. Ginger, *Altgeld's America*, 24, 252-56, 276-77, 294-303; Casey, *Chicago Medium Rare*, 38, 66-67, 119-21; Smith, *Chicago*, 195-96, 240-43. As might be expected, the battle for control of Chicago's transportation franchises provided vast opportunities for corruption, and public ownership of these lines was the object of reformers for many years before finally being defeated at the polls in 1907. See Ginger, 234-303.

39. KML to George T. Fry, interview *Chicago Examiner*, 11 August 1907.

40. KML to Frank Q. Landis, 23 June 1898, KML-CHS, 76-538; KML to Fred Irland, 2 July 1898, KML-CHS, 76-538; KML to Charles B. Landis, 2 July 1898, KML-CHS, 76-538 ("deadern a smelt"); KML to John McNulta, Calumet Electric Street Railway Company, 19 July 1898, KML-CHS, 76-538; KML to Walter K. Landis, 12 July 1899, KML-CHS, 77-542 ("leaning heavily on a cane"); KML to Joseph Patterson, 12 July 1899, KML-CHS, 77-542.

41. KML to Archelaus S. Terrill, 1 January, 2 February, 21 March 1899; KML to John Gibbons, 4 February 1899; KML to John McNulta or Edwin A. Potter, numerous monthly bills to Calumet Co. in letterbooks, 1899 to 1905; KML to John D. Hood, 21 September 1899; KML to Henry L. Bryan, 3 February 1900, ("Justice Fuller's Court," an irreverent reference to Melville W. Fuller and the Supreme Court of the United States); KML to Fred Landis, 10 March 1900; KML to J. Frank Aldrich, 17 March 1900; KML to Chicago Union Traction Co., numerous bills in letterbooks, 1901-1905; KML to Charles J.S. Kumler, 18 June 1901; KML to Grand Trunk Railway System, numerous bills in letterbooks, 1901-1905; KML to E.W. Meddough, 18 December 1901; KML to F.E. Rankin, 17 March, 26 April 1904; KML to Charles M. Hays, 26 April 1904; Hilda T. Krekel to KML, 26 August 1904; KML to Chicago Consolidated Traction Co., 28 February 1905. All of the above are found in KML-CHS letterbooks, 77-542, 77-535, 78-543, 79-537, and 79-598. Henry T. Thurber to KML, 12 February 1900, KML-CHS, 29-307; William Pinkerton to KML, 27, 29 December 1901, KML-CHS, 30-322; Charles W. Fairbanks to KML, Fairbanks to Richard Kerens, 22 August 1902, Charles W. Fairbanks Papers, Indiana University ("CWF-IU"); KML to Fairbanks, 13 January 1903, CWF-IU.

42. KML to F.E. Rankin, 3 March 1904, KML-CHS, 79-537; KML to Grand Trunk Western Railway Co., 28 May 1904, KML-CHS, 79-537; John H. Landis to *Cincinnati Post*, 28 June 1907 ("fattest fees"); KML to Billy Walker, 7 April 1902, KML-CHS, 77-535 ("nearly all trial business"). Income was determined by adding the various bills cited in the previous note. Not all bills were recorded in his letterbooks, however, so these amounts represent an estimated income. In addition to representing Grand Trunk in court, Landis also acted as a liaison between Chicago courts and the main office in Detroit and made many trips to Canada on company business. Various letters, 1901-1905, KML-CHS, letterbooks 78-552, 78-243, 79-537.

43. KML to Henry L. Bryan, 3 February 1900, KML-CHS, 77-542 ("serious business"); KML to Charles W. Fairbanks, 13 January 1903, CWF-IU ("President Lincoln"); KML to F.E. Rankin, 25 February 1905, KML-CHS, 79-598 ("fifteen superior officers").

44. KML to Oscar Straus, 25 September 1896, KML-CHS, 75-550; KML to Charles B. Landis, 7 February 1898, KML-CHS, 76-538 ("considering the fact"--The reference, of course, is to a routine circumcision); KML Charles J.S. Kumler, 14 December 1896,

KML-CHS, 75-550 ("we have about decided"); KML to Walter K. Landis, 8 January 1900, KML-CHS, 77-542 ("nearly tore the building"); KML to Dr. H.C. Ford, 27 October 1906, KML-CHS, 80-544.

45. KML to Walter K. Landis, 7 April 1899, KML-CHS, 77-542 ("I wonder how on earth"); KML to George A. Funkhouser, 16 February 1898, KML-CHS, 76-538 (other quotes); McCutcheon, "Kenesaw Mountain Landis," 426.

46. KML to Abraham Miller, 21 May 1903, KML-CHS, 78-552 ("frightful place"); KML to Charles J.S. Kumler, 20 May 1903, KML-CHS, 78-552 ("guardian appointed").

47. KML to Thomas T. Crittenden, 26 June 1895, KML-CHS, 75-549; KML to John B. Moore, 14 August 1895, JBM-LC ("we can do more work"); KML to J.W. Blanchard, 17 July 1897, KML-CHS, 76-538; KML to Charles B. Landis, 28 June 1897, KML-CHS, 76-538; KML to Charles H. Boynton, 2 September 1897, KML-CHS, 76-538; KML to Walter Carey, 14 June 1898, KML-CHS, 76-538; KML to Salsich and Wilson, 27 June 1898, KML-CHS, 76-538; KML to Charles B. Landis, 28 March 1899, KML-CHS, 77-542; KML to John H. Landis, 11 July 1899, KML-CHS, 77-542; KML to Walter K. Landis, 12 July 1899, KML-CHS, 77-542 ("no malaria"); KML to Salsich and Wilson, 8 January 1900, 77-542; KML to Fred Landis, 18 June 1900, KML-CHS, 77-542; Rosenblatt to George W. Funk, 7 June 1901, KML-CHS, 77-542; Hilda T. Krekel to KML, 7 July 1904, KML-CHS, 79-537; KML to Charles F. Morse, 23 September 1905, KML-CHS, 80-544; KML to FOL, 18 July 1906, FOL-UC; KML to Charles A. Davis, 4 April 1910, KML-CHS, 80-541; Building Receipts from Burt Lake, KML-CHS, no file, no box.

48. KML to Charles B. Landis, 28 March 1899, KML-CHS, 77-542 (" train for the contest," and mock Scripture); KML to Charles B. Landis, 28 June 1897, KML-CHS, 76-538; KML to John H. Landis, 15 July 1897, KML-CHS, 76-538 ("new man"); KML to Walter K. Landis, 12 July 1899, KML-CHS, 77-542 ("ferocious fish"); KML to William M. Elliot, 18 August 1892, KML-CHS, 75-549; KML to Walter K. Landis, 12 July 1899, KML-CHS, 77-542, KML to John H. Landis, 10 August 1897, KML-CHS, 76-538 ("saddle nearly killed me"); McCutcheon, "Kenesaw Mountain Landis," 427; KML to J.C. Hampton, 3 February 1908, KML-CHS, 80-546.

49. KML to Henry F. Pringle, 30 November 1926, KML-CHS, 16-132B; KML to Lew Wallace, 23 January 1920, KML-CHS, 82-553; Russell Nye, *The Unembarrassed Muse: The Popular Arts in America* (New York: The Dial Press, 1970), 244-68.

CHAPTER 6
IN PURSUIT OF THE BRASS RING

Between the years 1895 and 1905, while he never ran for an elected office, Landis involved himself deeply in local, state, and national politics. Sometimes he became politically active because of his genuine concern with issues of the day, such as the 1896 presidential election or the Spanish-American War. At other times, he offered his assistance to his brothers or a friend. In general, however, his political involvement in this period was geared toward one goal: obtaining a federal judgeship. Early in the 1890s he became convinced that that was the only career that would make him happy. By 1901, this desire had become something akin to an obsession, and he worked toward this goal with a single-minded doggedness. During these years, he also learned a great deal about how the judicial selection process operated, how influence was generated and brought to bear, about the nuts and bolts of turn-of-the-century party politics, and about the importance of networks of family and friends that undergirded political life. In the end, he used every friend he had, every political favor that he had coming, and a carefully designed strategy, but he finally captured the prize he had coveted for so long.

In the decade following his return from Washington, Landis' Logansport family provided a tremendous source of strength and support. The Landis boys hit their stride during these years, with each of them moving to the top of his chosen field. Years later,

John Landis told a reporter that the boys had all achieved success because they stuck together "like glue," and brother Charlie joked that they "could make more money traveling together as a vaudeville quintet," because of their local fame. In a remarkable family, however, the second youngest, Kenesaw, emerged as the undisputed leader who had a hand in helping each of the others. During the late 1890s, the brothers all struggled to find success and went off in different directions, but they communicated often and relied on each other in times of trouble. They all tried to make it home to Logansport for major holidays--especially Thanksgiving--at which time they would discuss careers, politics, and their personal lives. In addition, Kenesaw frequently exchanged letters with his mother, thus keeping up on the gossip from home.[1]

In November 1896, Abraham Landis died at seventy-six years old after a long illness, and Kenesaw moved into the role as head of the family. Even his brother Charles, eight years his senior, called Landis "Old Ken" and remarked that, "in brains, Ken tops the whole family." Concerned for the welfare of his mother, Kenesaw turned down a job offer in New York in order to remain reasonably close to her. Then, when her application for a federal pension was denied, he persuaded all the brothers to donate a monthly stipend to help care for their mother, with his contribution being the largest. Landis adored her and his two sisters, calling them "the best women on earth," and, even though he lived away from home, he always tried to care for their needs.[2]

Just days before Abraham died, the first member of the Landis family was elected to public office. After an unsuccessful bid for the Republican nomination for congress from his district in 1892, Charles Landis went back to work on his newspaper in Delphi,

mended some political fences, and strengthened his contacts around the state. By 1896, he was ready to run again, having built a reputation for honesty, common sense, and the ability to tell a humorous story. He ran in the ninth congressional district in Indiana, which voted about evenly in most elections, with the presidential or gubernatorial winner usually carrying the local candidate of his party on his coattails. After obtaining the nomination in June, Charlie sought help from many sources and relied heavily on the influence of the most powerful politician in the state, Senator Charles W. Fairbanks, a family friend and political ally. His brothers also helped, however, meeting in Logansport frequently to discuss strategy and exchange ideas.[3]

Kenesaw came down for these caucuses, and though his party affiliation was again undecided, his family loyalty led him to work hard for the Republican congressional candidate of the ninth district of Indiana. Despite his long absence from the state, he thoroughly understood Indiana politics and his contacts in the Midwest and the Capital had been strengthened by his association with Gresham. In August, he wrote to a friend in Washington, asking for monetary information and explaining, "my brother C.B. Landis, of Delphi, Indiana, is running for Congress against a free silver man who has been nominated by the popocrats, populists, demulists, prohibitionists, women suffragists and socialistic laborites." He stopped short, however, of actively campaigning for his brother, as he was still perceived as a Democrat, and believed he would do more harm than good. "In view of the rather badly torn up condition (politically) of my family ," he wrote, "it would be better for me to keep out of my brother's district." He did, however, operate quietly in the background by lining up support among newspaper friends and other contacts

around the region, and Charlie won the election by a narrow margin, becoming the second Landis brother to work in Washington.[4]

Despite having helped his brother get elected, Landis held a rather low opinion of the District of Columbia and congress. Just after the election of Charlie, Kenesaw advised a friend, "whatever you do, whatever temptation may befall you, however hard your circumstances may become--beware of Members of Congress and Senators of the United States . . . Avoid the Capitol as you would pestilence. Cholera and Small-pox are harmless diversions compared to this awful plague." Moreover, although he thought highly of Charlie, Landis believed his brother would be outclassed in Washington, and he told another Indiana representative, "he plays a pretty stiff game, but a man who has had Washington experience need not fear a tenderfoot from the Wabash." Still, he did what he could to make his brother's acclimation easier by lining up a place for him to stay and arranging meetings with press correspondents and other old friends who could help Charlie feel more at home. In addition, Landis sometimes wrote his brother to explain national problems and to advise him how his vote would be perceived back home.[5]

Charlie won re-election in 1898, again in a close contest, and his name began being mentioned in conjunction with the governor's race for 1900. An ally from Peru, Indiana believed that the office was one that "one of the Landis boys could afford to take." Charlie wanted the position, but Kenesaw thought that pursuing the governorship would hurt his brother's career, writing "I fear he has the gubernatorial fever and the situation is such that in my opinion he is likely to be nominated unless he takes positive means to prevent it." Kenesaw saw the governor's office as a political dead end and, in a letter to

Charles in 1899, he spelled out his reasons. Gus (Charlie), he argued, had made an immediate impact in congress and was running in powerful circles. His district was narrowly Republican and he would be returned to office every time a GOP governor was elected in Indiana. As governor, the salary would be the same and he could not succeed himself, so after four years he would be out of office and would have lost his local constituency. Worst of all, the office offered no challenges: "You would not have a thing to do on earth but talk politics at Indianapolis and regret that you were denied the privilege of participating in congressional debate." In a letter to his brother Walter, Kenesaw summed up his feelings on the situation, saying, "the fact is, about all the Governor of Indiana has to do is sign Notary Public Commissions, and my fear is, if he goes into this place it will be the end of him." Charlie heeded Kenesaw's advice, stayed out of the governor's race, and was re-elected in 1900, 1902, and 1904, aided by his strengthening political alliance with Senator Fairbanks.[6]

Walter, the oldest brother, continued to long for exotic places and a more interesting life than that which he enjoyed as editor of the *Marion Chronicle*. He still traveled when he could, but always ended up back in Marion. He kept his hand in Indiana politics, and like Charlie and Kenesaw, he enjoyed a friendship and political alliance with Fairbanks. In 1898, the United States took possession of Puerto Rico as one of the controversial prizes from the Spanish-American War. Kenesaw, although strongly opposed to American imperialism, quickly contacted his friends in the state department to try to obtain a post for Walter in the new territory. Charlie and Fairbanks added their influence, and, in October, Walter was appointed postmaster-general of Puerto Rico.

When he first arrived in San Juan, he wrote to Kenesaw, "the first American I came across here was your friend Major Stewart and we have become fast friends. He evidently thinks that you are a great man." Walter soon met other people who knew Kenesaw from the state department and who helped him to get comfortable in the strange new surroundings. He grew to love the Caribbean island and stayed on as postmaster for many years. Kenesaw thought highly of his older brother and expressed his respect, saying, "I could travel with him around the world, meeting nobody else, and not get tired of his society. He's the nearest approach to an absolutely square good fellow I ever saw."[7]

John proved the most independent of the Landis boys as far as family contacts were concerned. He went his own way, built up a successful medical practice in Cincinnati, married, started a family, and generally stayed out of politics. Gradually, however, he became an advocate of new, scientific, public health measures, an interest that drew him into the periphery of Cincinnati city politics. In 1901, he wrote a book on the subject and asked for Kenesaw's help in getting it reviewed by the Chicago papers. Kenesaw replied that his friends at the *Chronicle* and the *Herald* had agreed to review it impartially, but that, "they further gave me to understand that there wasn't even a presumption that a brother of mine could write anything that was worthy of even being reviewed." Even though such requests were rare, and John was less involved with the family's political struggles than the others, he maintained an affectionate relationship with Kenesaw. Once John came down with the gout and jestingly recalled that Kenesaw's "fondest hope several years ago was to cultivate an aldermanic belly and gout," because the lawyer regarded these disabilities as signs of "respectability and gentle birth."[8]

Fred, six years younger, presented Kenesaw with the greatest challenge of all his brothers. Fred admired his older brother and tried hard to follow his exact footsteps into law. He took over Kenesaw's paper route at an early age, completed a stenographic course in 1890, read law with local attorneys, and was admitted to the Indiana bar when he turned twenty-one, in 1893. He then worked as a correspondent for the *Logansport Daily Journal* while working his way through the University of Michigan Law School, from which he graduated in 1895. At that point, his attempts at establishing a legal practice in his home town floundered and he seemed to lose momentum. By 1897, Kenesaw had grown worried about Fred, thinking that he acted restless and that he moved around with no direction, chasing one ethereal speculation after another. He complained to Charlie that Fred "does not seem to have any particular object in life. I am afraid he gives up his time to idle schemes of the air castle variety and that he devotes no time to his books." To Kenesaw, the ultimate overachiever, this was unfathomable behavior. He had unsuccessfully tried to find Fred a business or job in Chicago and he told Charlie "his case has haunted me for weeks and unless something is done for him I don't believe there is much in store for him . . . . he must get out of Logansport."[9]

Throughout the late 1890s, Kenesaw continued to despair for his younger brother, writing, "I fear for the future of that boy." He paid off some debts that he believed Fred had "incurred with criminal recklessness," refused to lend him money for a speculative venture, and sent letters of introduction to New York and Washington newspapers trying to land him a job as a journalist. Fred held several short-term positions, including working as private secretary to Charlie, before obtaining work with the *New York Herald*

office in Washington. He received this job in return for exclusive stories that Kenesaw had given to the head of the *Herald* office when he was in the state department. Kenesaw told John Landis that journalism better suited Fred than law, and that "this opinion was based on his disinclination to stick to his books." By 1900, Fred was back in Indiana and Kenesaw again expressed his concern, saying, "I do not know much about what he is doing, but I hope he is doing something, for I cannot conceive of a worse fate than being at Logansport doing nothing."[10]

Fred had grown up in the previous few years, however, and Kenesaw greatly underestimated his little brother. The younger man had moved back to Indiana in order to lay the groundwork for his own political career, planning to run for congress in 1902. A recent redistricting had made it possible for Charlie to run in one congressional district, the tenth, while Fred ran in the adjoining one, the eleventh. By 1901, like the rest of his brothers, he had linked up with Charles Fairbanks, who surprised Kenesaw by writing, "there is no young man of his age in the State who has grown more rapidly than he during the last year or so. He has a splendid future before him." A year later, Fairbanks called Fred "a noble boy" after hearing an impressive speech that he had made in Indianapolis, adding "he makes friends wherever he goes." Kenesaw still doubted Fred's resolve and ability, but out of curiosity he attended the nominating convention, held in Wabash in late May.[11]

Afterward, Kenesaw returned to Chicago stunned by what he had witnessed. The local Republicans labored through an amazing 1,012 ballots before selecting Fred as its candidate, causing Kenesaw to exclaim, "it was the greatest convention that any man ever

attended." He revealed a growing respect for the youngest Landis, explaining in a letter to Walter, "I was perfectly amazed at the way Fred handled the crowds that visited his headquarters. He acted like he had been President of the United States for three or four terms." He proudly added that Fred "has brains and character, and . . . will make a name for himself and the family." Kenesaw seemed especially surprised that Fred ran his own campaign and was able to win without much help from his brothers. Fred won the November election, joined his brother Charlie in the capital, and used his newly developed political acumen to win re-election two years later.[12]

Landis maintained close links to his brothers, but he also developed strong friendships outside his family. He formed warm and lasting associations, but, significantly, seemed to choose his companions of this period at least in part on the basis of their power and political connections. He especially gravitated toward federal judges, counting three of those, A.B. Anderson, district judge at Indianapolis, Christian C. Kohlsaat, district judge at Chicago, and another Chicagoan, Peter S. Grosscup, district judge from 1889 to 1899, and circuit judge after that, among his closest confederates and fishing buddies. Grosscup, one of his best friends after Landis returned from Washington, gained notoriety during the Pullman strike by reluctantly helping to draw up the injunction against the strikers, and then ruling in favor of that same injunction. He had not been happy with his role in the Pullman case, feeling that the legal system forced the judges to take sides, and had even thought about quitting the bench. He stayed on, though, and became so close to Landis that their two families generally vacationed together in Wisconsin every summer. In 1899, when Grosscup fell dangerously ill, Landis cancelled

his vacation to visit him in Ohio and wrote, "I haven't a brother for whom I feel a deeper affection than I have for him." A Grosscup relative, touched by this and other demonstrations of friendship, praised Landis, saying, "your whole life . . . has been given up to kindliness to others, even when your own personal comfort and business opportunities have necessarily felt the effects of your generosity."[13]

Landis also had long-time friendships with two Indiana senators, Albert J. Beveridge and Charles W. Fairbanks, political rivals who competed for control of the state Republican party. Beveridge had met Landis in the 1880s while developing his eloquent speaking style in various political campaigns. They crossed paths many times through the years and remained friends when Beveridge entered the senate in the 1890s. However, as Landis became a close political ally with Fairbanks, Indiana's other senator, and Beveridge took a strong imperialist stand, Landis privately lost respect for his old friend, once writing, "poor Beveridge. He really acts like he has cracked. There is a good deal of the pathetic in his jackassinine performances." Landis managed to overcome this scorn, though, when he needed political favors from Beveridge, and the two men still cooperated on that level.[14]

For his part, Fairbanks sometimes seemed to operate as a sixth Landis brother, meeting with them, helping them out, and calling on them for favors. After Gresham died, Landis spent some time searching for another rising star onto whom he could attach his fortunes. Fairbanks seemed to be that man, and Landis worked hard for his friend, hoping to boost him to the presidency in 1904. Fairbanks appreciated those efforts and in 1902 wrote a glowing letter of recommendation for his "very good personal friend,"

saying, "he is loyalty itself, of untiring industry and splendid ability." In addition to finding friends in these political alliances, of course, Landis also hoped to build up personal debts that he could reclaim in the future.[15]

The closest and longest-lasting friend that Landis acquired at this time, however, was Illinois lawyer and politician, Frank Orren Lowden. Born in Iowa, Lowden graduated from Union College of Law four years ahead of Landis and immediately began working with corporate clients. As early as 1892, Landis was referred to by Lowden as a "congenial" friend shortly after Kenesaw had defeated him in Landis' first jury trial. Lowden served as an usher at Landis' wedding and, a year later, Landis attended his friend's marriage to Florence Pullman, daughter of the millionaire Palace Car inventor. Among the other guests at Lowden's wedding were Andrew Carnegie, John D. Rockefeller, Henry Flagler, three Supreme Court justices, Benjamin Harrison, Marshall Field, Robert Todd Lincoln, Philip Armour, and assorted United States senators and representatives. In short, Lowden associated with some of the most powerful men in America and Landis enjoyed being recognized as a friend of his. Lowden began to specialize in the formation of corporations in the late 1890s, thus making himself wealthy even without the millions that he and Florence inherited when George Pullman died in 1897. As he drifted toward politics, he and Landis became strong allies, and the two men sometimes met to discuss strategy at Lowden's lavish, experimental farm in Oregon, Illinois, or in his summer home in Alexandria Bay, New York.[16]

Despite these politically oriented friendships, after his return from Washington Landis minimized his partisan efforts and tried to concentrate on law. He continually

found himself drawn back in, however, as he was good at politics, his talents were constantly in demand, and he realized that such activities could only enhance his chances for career advancement. Sometimes he took to the stump on behalf of a brother or a political ally. At other times a hot issue captured his attention and compelled him to speak out. Primarily, though, his political activity was motivated by his long-standing desire to become a federal judge.

As early as 1894, he devised a long-range strategy by which to pursue his coveted prize. While still in Washington, Landis wrote to Grosscup inquiring about the workload in the Chicago federal courts. Grosscup replied that there was a "crying need" for another district judge and another circuit judge for that region owing to the dreadfully overcrowded conditions. This planted a idea in Landis' brain. He decided to work toward creating a new judicial position in Chicago, one that, by the time such a bill worked its way through the intricate channels of Congress, he would be qualified to fill. He had learned a lot in his time in Washington, and he knew how things were done in congress, how bills were passed, promises were solicited, and deals were made. He also knew that before he could even consider such a plan, he had to first establish himself as a top lawyer while at the same time building up his political alliances. Thus, he concentrated on his practice, but constantly remained on the alert for opportunities to ingratiate himself to men of political influence.[17]

In 1896, Landis was again in the market for a political party which he could support and which offered him the brightest future. As he grew older and family responsibilities increased, he became somewhat more conservative politically and less

interested in reform issues. Still, he could not get completely comfortable with the big money interests of the Republicans or the racial attitudes of either party. He had known William Jennings Bryan, the Democratic candidate for president, fairly well in Washington, and had "formed a very high opinion of his ability and integrity." Landis grew dissatisfied, however, with the Nebraskan's campaign speeches, and especially opposed Bryan's stance on the gold issue. He finally decided that "there is no doubt that he is for the underdog, but at the same time he is afflicted with an inordinate desire for public office and I don't believe that any man so situated can be real downright honest." Landis thought little more of the Republican candidate, writing, "it begins to look as though a fellow who wanted to vote for decent money this year would have to train with the Republican party and swallow the man [William] McKinley. It is a terrible dose as far as the personality is concerned . . . . No one doubts his honesty but he has not as much backbone as a fishworm." He thus accepted the GOP as his party, but this was more of an acquiescence than a wholehearted embrace of their politics or philosophy. Disliking both candidates, he felt strongly about the issues and campaigned vigorously for a conservative money policy, giving numerous speeches in which he argued that free silver was a mere placebo which would solve none of the more pressing problems facing the nation.[18]

In another issue close to his heart, Landis believed that the United States should not get involved with annexing foreign territories or building an empire. He and Gresham had agreed on this question, and Landis tried to carry on his mentor's work by preaching the cause of anti-imperialism at every opportunity. In 1897, when President McKinley

approved the annexation of Hawaii, the move that Gresham had successfully blocked for two years, Landis rationalized the treaty, arguing that the American people would learn from this dreadful mistake and avoid a similar policy in the future. "It may be a pretty serious dose," he wrote, "but it will help the patient." He told his brother John, in words which could have been spoken by Gresham, that the annexation had "a fair prospect of uprooting a sentiment destined in my judgment, if not checked, to destroy our present form of government," and it would bring such "embarrassments, humiliation, and hazards," that the country would never again want to pursue a similar path. Because of his experience in the state department, Landis was regarded as something of a local expert on foreign policy and received many invitations to speak on such issues.[19]

In February 1898, the sinking of the Maine gave Landis his toughest challenge as an anti-imperialist spokesman. While the yellow press screamed for war and the taking of Spanish possessions, Landis pleaded for patience and moderation, recalling his father's warning that something was wrong with a country that needed constant saving. It soon became apparent to him, however, that the country wanted war. He observed that "it would be difficult to conceive of a popular sentiment more nearly unanimous," and realized that he was swimming against a strong current with his opinions. He stopped making public statements about the situation and concentrated on his work, hoping the war fever would all blow over. In April, when war was finally declared, his patriotism and his fear of appearing disloyal overwhelmed his anti-imperialist sentiments and he took a keen interest in the struggle being played out in the Caribbean. After the war, he ceased to make public statements about imperialism except when he felt compelled to defend

Gresham and his polices. Landis believed strongly that the United States should not annex foreign lands and for six years he had attempted to get his neighbors to share his views. When, however, the possession of distant territory was made inevitable by the results of the war, Landis quietly acquiesced in the majority opinion of his fellow Americans.[20]

In 1900, with his law practice finally operating on a profitable basis, Landis moved to the next step of his designs to land a judgeship. During the previous few years, he had never missed a chance to point out the crowded condition of the Chicago federal courts, and, in truth, they were indeed overtaxed, behind schedule, and dependent on the assistance of judges from other districts to alleviate the load. Landis hoped to have a bill pushed through congress that would create a new position, but the timing was crucial: he did not want the judgeship created until he was certain that he would be the man who would fill it. In 1899, a circuit judgeship became available, and Landis' friend Grosscup moved up from the district bench. At that time Landis did not have the apparatus in place to press his own nomination for the district judgeship, and another friend, Christian Kohlsaat, was appointed. He was determined that he would not let the next opportunity pass--and he would create the next opportunity, if necessary.[21]

In 1900, Landis worked hard to strengthen his political base in preparation for his campaign to have a new judgeship created in Chicago. First, he became more active in the political camp of his friend Fairbanks and other Republicans. By now firmly back in the GOP column, he spent the final month of the 1900 campaign away from his office, making speeches and finding other ways to make himself useful to Republican candidates. After the election, elated by the second defeat of Bryan, he reported whimsically, "I felt

in my bones that I had saved my country." In addition to backing the winning horse, Landis used the election and its aftermath to draw closer to Fairbanks, who began to be mentioned frequently as a possible candidate for the presidency in 1904. He also established an alliance with Billy Lorimer, a member of the House of Representatives and disreputable boss of the Republican machine in Chicago. A consummate politician, Lorimer dominated GOP affairs in Chicago, Cook County, and often in the entire state. The *Chicago Tribune* reported that Lorimer, "maintains the same placid, benign attitude through praise and abuse. He endures all and bides his time, always observing the doctrine of nonresistance. Then gently and blandly he gets his way." The alliances with both Fairbanks and Lorimer would serve Landis well in the future.[22]

As 1901 began, Landis moved into high gear, trying to get a bill for a new judgeship initiated, through the judiciary committee, and passed by the time the congressional term ended in February. In long letters to Fairbanks and other senators, including the two from Illinois, Shelby M. Cullom, and William E. Mason, he detailed the need for a new judge. The federal courts in Chicago, he accurately explained to Fairbanks, are in a "most deplorably congested state" and operate "something after the manner in which threshing machines are run." He cited statistics and the opinions of others to prove his case and told Fairbanks that his friends already had the bill written up and into committee. Landis also told the senator that, should he get the bill passed and receive the appointment for himself, he could lay "a foundation" in Illinois which would help Fairbanks win the presidency in 1904.[23]

There were significant obstacles to this bill, however. First, President McKinley wanted to appoint James S. Harlan, son of Supreme Court Justice, John M. Harlan, to the new position, while congressman Lorimer opposed Harlan and threatened to block the bill if Harlan was slated to receive the appointment. This problem had the potential of taking care of itself as Harlan was also up for an appointment as attorney general of Puerto Rico. The second problem proved more difficult. Politicians from downstate Illinois wanted to create an entirely new district outside of Cook County for purposes of patronage and were trying to get the bill changed to reflect this desire. Landis attempted to plug this leak by emphatically telling his forces in Congress, "don't let them create a new District but give us an additional judge here" because "practically all the business is in Cook County."[24]

Landis told Fairbanks that, if they could get the bill out of committee in the form he desired, and get it passed by the senate, Lorimer believed he could push the bill through the House. Landis trusted Lorimer's instincts on this, judging the politician to be of "a cool, calculating turn." Planning for every contingency, Landis had already lined up Grosscup and others to go to see the president when the bill passed, "and it is their belief we can land the appointment." After detailing all of this intricate planning and maneuvering, Landis, with tongue in cheek, asked Fairbanks not to mention his interest in the matter, as "someone might be unkind enough to suspect me of being not altogether unselfish." Fairbanks replied that, although it was probably too late in this session to get the bill passed, "nothing would delight me more than to have the matter work out along the line of your wishes."[25]

In the end, the problems were too much to overcome in such a short time, and the bill never made it out of the judiciary committee. A key to Landis' entire career was his ability to study his setbacks and learn from his mistakes, and in the two-month struggle to create a new judgeship and win the appointment, Landis had learned a great deal. His most important lesson was that he had not yet accumulated enough political markers that he could call in at the appropriate time. His only solid ties to Washington had been as a Democrat, and, in 1901, the Republicans owed him almost nothing. He recognized this fact at once, telling Fairbanks with a trace of sadness, "I realize fully there is not one earthly reason why he [President McKinley] should have given a place to me on my own account."[26]

Regarding the affair as a temporary reversal rather than a defeat, Landis then set out to earn the next available appointment by proving his value and loyalty to the Republican Party. He spent much of 1901 working behind the scenes promoting Senator Fairbanks for the 1904 presidential convention, believing that, if the President would not appoint him, he could help make the next president and win an appointment from him. McKinley's assassination in September, though, derailed these plans. Teddy Roosevelt ascended to the presidency, and his popularity precluded the thought of any other leading Republican challenging him for the top spot in 1904. Realizing the difficulty of defeating the incumbent president, Fairbanks began working for the vice-presidential nomination. Landis himself soon came to respect Roosevelt's leadership, writing in March 1902, "I am more pleased with the posture of affairs political than I have been for a long time."[27]

In spring 1902, Landis started work on his next campaign, hoping to get a new judges bill through congress in the December session. Senator Shelby Cullom of Illinois expressed a desire to create an additional circuit judgeship in Chicago rather than the district position that Landis wanted. After some thought and discussion, however, Landis accepted this compromise, believing that Kohlsaat would get the circuit spot, leaving a vacancy in the district court that he could fill. For a while, he toyed with the idea of running for congress in order to bolster his political connections. Then he decided to concentrate on making local Republicans indebted to him by campaigning vigorously throughout the northern part of the state. Slowly, he built up his list of political friends and those who owed him favors. Near election day, Len Small, a member of the Illinois Republican State Committee, wrote to thank Landis for his efforts in Kankakee County, telling him that "not a few told me that you have made the best speeches they have heard during the campaign." Small closed with the words Landis wanted to hear, saying, "you have placed Mr. Curtis and I under obligation to you and I trust that should an opportunity offer when we may reciprocate you will not hesitate to call on us." Landis had every intention of doing so.[28]

The winter session of congress in 1902-1903 saw the defeat of another judges bill. This time opposition came from Illinois senator Albert Hopkins, who had recently replaced Mason, and the representative from Landis' own district, James Robert Mann. Hopkins could be worked with, Landis believed, as he merely wanted to stand in the way of any plans of Senator Cullom. The puritanical Mann, however, drove Landis to distraction because he would not cooperate. "This representative appears to be an egotistical, angular,

impossible, pestiferous quantity," he wrote in frustration. He then hinted that he might be tempted to run against Mann in 1904, telling his brother, "I will say to you in confidence that if I get the congressional microbe in my brain I shall not move out of this district for the purpose of standing for Congress." The idea of three Landis brothers in congress at the same time must have appealed to him, but only as an intriguing rumination. His primary concern, always, was getting a judicial appointment and he would run for public office only if it would help him achieve that goal.[29]

In the fall of 1903, his plans began to fall into place. A bill that satisfied most of the Illinois factions was being hammered out in the judiciary committee. This bill called for an additional circuit judge and an additional district judge in Chicago, with a completely new district being formed somewhere downstate. This bill pleased Landis immensely, because he was now faced with stiff competition for the appointment from the well-connected district attorney in Chicago, Solomon H. Bethea. Bethea had been campaigning nearly as long and as hard as Landis and, if it should come down to a choice, Senator Cullom would choose Bethea. The new bill, then offered two district judgeships (assuming Kohlsaat would get the circuit job), and allowed room for both Landis and his rival.[30]

During that autumn as well, his friend Frank Lowden announced his intention to run for governor the following year and asked Landis to direct the Chicago end of his campaign. In October 1903, Landis set up headquarters in the Great Northern Hotel and began preparing pamphlets, badges, and news releases while also lining up precinct workers willing to form local Lowden clubs. He went to Logansport for Thanksgiving to

meet with his brothers and discuss the campaign. "I never had so much need," he told his mother, "of an increased number of heads as I have now and will have for the next six months." He plunged into the campaign with his usual energy, appearing everywhere at once, mailing out 200,000 pieces of printed material, while at the same time continuing his work as counsel for the transit companies.[31]

The Republican gubernatorial race soon developed into a three-man contest between Lowden, current Governor Richard Yates, and Cook County States Attorney, Charles S. Deneen. Lowden won the early backing of Billy Lorimer who was engaged in a battle with rebels in the state for control of the Illinois Republican Party. The "Washington crowd" of Illinois politicians who held national offices, men such as senators Cullom and Hopkins and speaker of the house of representatives "Uncle Joe" Cannon also supported Lowden. Through his work on the Lowden campaign, Landis grew much closer to these men and thus strengthened his congressional base.[32]

On January 25, 1904, Landis kicked off the official campaign with a mass meeting in the Louis Sullivan's Auditorium Theater. He organized the entire affair and gave the introductory speech for the meeting, which attracted many of Chicago's elite and was designed to impress the Illinois Republican leaders. For the next four months, he ran every aspect of the Chicago campaign. He handled appointments, potential supporters, job seekers, rumors, press releases, endorsements, and rallies. He wrote letters, dispensed funds, directed troops in the field, and set up halls and speakers. By March, he found himself so busy that he had to ask to be temporarily relieved of the corporate responsibilities of his legal practice.[33]

On May 12, Landis and Lowden went to the convention in Springfield with high hopes. Lowden trailed Yates and Deneen after the primaries, but he had won enough delegates so as to be able to wheel and deal for the nomination, and Lorimer excelled at that sort of political game. Yates had the most votes, but Deneen carried the support of the newspapers and public opinion, and Lorimer had a pocketful of favors and privileges to trade with downstate bosses. It promised to be an interesting contest and one which Landis would enjoy immensely.[34]

There had never been another Illinois convention like the one held in May 1904. Eight thousand people crowded into a state arsenal built to hold six thousand. Pandemonium reigned as bands played, delegates shouted, and fights broke out in the sweltering heat amid the oppressive smell of cigar smoke and whiskey. Day after day, the delegates voted while chairman Cannon banged for order with a giant gavel fashioned from a cannon ramrod. Night after night, Landis and other politicians raced from room to room, cutting deals, promising favors, making threats. On May 20, with the voting hopelessly deadlocked after fifty-eight ballots, the convention adjourned for ten days. Landis thought back to his brother's nomination of two years earlier and wondered if the delegates would ever settle on a candidate. When the convention met again on May 31, Lorimer believed he had secured the victory during the interim. Yet Lowden only inched ahead as the delegates voted again and again. Finally, on June 3, on the seventy-ninth ballot, Governor Yates' antipathy toward "that bastard from Washington," Lorimer, outweighed his personal ambition and he threw his support to Deneen. In the rear of the platform, Lowden slapped Landis on the shoulder, said, "let's die game, old man--this is

no time to look glum," and made the nomination unanimous by pledging his support to Deneen.[35]

They may have lost the nomination, but both Landis and Lowden had gained prestige in the eyes of Republicans around the country because of their unexpectedly strong performance in the race. Lowden was named to the national committee to re-elect Roosevelt and throughout the 1904 campaign he worked hard for the President and the party. As for Landis, he could now, on his list of powerful political allies, claim Lowden, vice-presidential candidate Fairbanks, senators Cullom and Hopkins, representatives Lorimer and Cannon, as well as his two brothers in the house. No longer on Lowden's payroll, Landis had to return to his law practice, but he did what he could for the GOP in the fall. During the previous two years, he had accumulated a fistful of IOUs and in 1905 he planned to collect what was owed him.[36]

When congress met in December 1904, Landis knew that his best --and probably his last--chance to win a judgeship had arrived. By that point, it was apparent to him that the judges bill might at last be passed. Opposition still existed, particularly among downstate bosses hoping to obtain more patronage, but pressure had grown so strong that it was almost certain that some sort of bill to alleviate the crowded condition of the Chicago courts would become law. He had built his political support to a level that he could not approach again, short of giving up his practice and entering politics full time. He had now completed all of the preliminary strategic steps. He had established himself as a top lawyer, won backing from important political, legal, and business people in Chicago, and gotten a bill into the judiciary committee of the senate. All that remained

was to see the bill passed in a form which would be advantageous to him, and then to marshall all of his considerable forces in support of his nomination.

In December 1904, Chicago District Attorney Solomon Bethea emerged as an ally of sorts to Landis. He wanted the judgeship every bit as badly as did Landis, had as much influence, and had worked just as hard to get it. He pestered Cullom constantly to get the bill passed and provided the senator with information about court conditions in Chicago which supported that already supplied by Landis. Believing that a little bribe might help his cause, Bethea sometimes sent some of the senator's favorite cigars along with his entreaties. He also worked successfully on Hopkins to eliminate the previous animosity toward Cullom which had led the new senator to block the bill a year earlier. In return, Bethea wrote to Cullom, Hopkins wanted them "to understand that we are under obligation to him." As the bill stood, Kohlsaat figured to move up to the new position on the circuit court and Cullom would name Bethea to fill that spot on the district court. Theoretically, Hopkins could name the other candidate, providing, of course, that the nominee met with the approval of influential Republicans. He was still undecided, but had narrowed the field to James Harlan, Landis, Chicago lawyer Jesse Baldwin, and several other state or municipal judges. Bethea also posed a bit of a problem for Landis in that he did not care who received the other new seat on the bench as long as the selection did not delay his own appointment. In late January, Bethea summed up the situation, saying, "it looks to me as if the problem was to get the President so that he would be satisfied with Landis, or to get Lorimer so he would be satisfied with James Harlan."[37]

During this period, Landis began to pull his forces together, determined that the judgeship he had helped to create would not go to another man at the last minute. In January 1905, Roosevelt had offered the new position to Lowden in return for his work on the President's re-election committee. Lowden declined but took the opportunity to press the qualifications of his friend in what was probably the first conversation in which the president had heard Landis' name. Roosevelt merely added the name to a long list of potential candidates. Landis, however, then went to work lining up judges and prominent lawyers from Chicago who would recommend him to the President as soon as the bill became law. Publicly, Landis continued to play his hand close to the vest, despite newspaper accounts that mentioned him as a candidate for the judgeship. He told one friend, "It is the ambition of every lawyer to become a federal judge, but what you saw in the newspaper was utterly without any basis in fact. This thing is wholly beyond me."[38]

In February, the bill began to work its way through congress. On February 3, Cullom introduced Senate Bill 7049 to his colleagues and three days later presented it to the judiciary committee. Using figures furnished by Landis and Bethea, he contended that Chicago courts were in danger of producing inferior service because of the enormous caseload. The *Chicago Legal News* reported that Cullom's argument "made a strong impression on the committee," but added that opposition to the bill developed almost immediately. For over two weeks Cullom and Hopkins struggled to keep the bill alive while other senators tried to trim away one of the new positions or to get a new district set up somewhere outside Cook County. Bethea, growing anxious over the delay, urged Cullom to at least get a new circuit judgeship passed and to dump the new district position

if necessary to get the bill out of committee. Had a version along these lines passed, all of Landis' efforts would have been wasted. On February 22, though, the committee negotiated around the last obstacles and reported favorably on the bill, which then moved unchallenged through the Senate and the House. The bill, signed into law on March 3, called for a smaller district in Chicago, with a new circuit and a new district judgeship established there. It also created a new Eastern District of Illinois at East St. Louis, thus appeasing the downstate interests. The bill, then, passed in essentially the form that Landis had hoped.[39]

Elsewhere, however, all was not going well, as two other candidates were still in the running. Powerful men in Washington pressed for Supreme Court Justice Harlan's son, James, but his candidacy was complicated by the fact that his brother, John Jr., was currently running for mayor of Chicago. Illinois politicians wanted to back someone who could repay them by throwing patronage their way. The only strong, local political backing that James Harlan possessed hinged upon his brother winning the election in April, a possibility which looked increasingly doubtful. Jesse Baldwin held support nearly as potent as that of Landis, and Roosevelt's friend, University of Chicago President, William Rainey Harper had written a strong letter on his behalf. The *Tribune* confused the issue by first reporting that Baldwin "in all probability will be chosen," then, a week later, widening the list to four, before finally, a week after that, concluding that it was a tossup between Landis and Baldwin.[40]

Landis pulled out all of the stops in an attempt to wrest the nomination away from his rivals. He pressured every federal and state judge who he knew to wire the president

"in substance that your candidate has been admitted to the bar and is not a crook," even dragging some of them into his law office and helping them write up telegrams. This strategy worked, as Roosevelt told Victor Lawson, owner of the *Chicago Daily News*, "on the whole, the backing from the bench and bar are strongest for Landis." Unfortunately, political influence carried more importance than the support of the legal community. Knowing this, Landis also sent a small parade of men to personally recommend him to Roosevelt. Both of his brothers, Senators Hopkins and Cullom, Joe Cannon, and the head of the Associated Press in Washington, Charlie Boynton, all met with the president on his behalf. Lowden went to Washington for the March 4 inauguration in order to put in another personal plea with Roosevelt. Through it all, however, Landis continued to wear his poker face, telling his boss with the Grand Trunk Railroad, "I don't know where you got the information about the federal judgeship. . . . the fact is this is beyond my reach, although I consider the place as probably more nearly embodying all that is desirable from my viewpoint than any other employment in which I might engage."[41]

In late February and early March 1905, during the final drive for the nomination, a feeling of desperation swept over the Landis camp. To Landis, this was similar to a political convention, but one in which he had a much larger personal stake. He had come too far to let things slip away at the last minute, and he increased the pressure another notch. In his element now, Landis pulled what strings he could from Chicago, still not wanting to appear so overanxious for the position as to actually go to the capital, while Lowden and his brothers coordinated activities in Washington. Telegrams written in a

comical code flew back and forth between the camps. One such telegram received by Landis read:

> Have seen Orange and Apple and talked situation over fully. Shall see Pear in the morning. Peach said to be strongly for Banana. I shall arrange to see Peach tomorrow. Pear and Apple will unite in recommendation for you. Lowden ought to come here now if possible. Think we can get Cannon to unite with Pear and Apple. Appointment will not be made until after March 4. Will keep you advised. Orange unites with me in this telegram.

While Landis was thus engaged, Baldwin and Harlan continued to press the president, forcing the Landis forces to check repeatedly on their supporters to watch for eleventh-hour defections. Vice-President Fairbanks, Congressman Lorimer, Senator Beveridge, and Illinois Governor, Charles Deneen, all wavered at one point and had to be reminded of their political debts to Landis.[42]

Finally, around March 7, Roosevelt made his decision and gave the nod to Landis. The president promised a future post to Harlan to appease that candidate's powerful friends, but wrote that Cullom and Hopkins believed that "Landis is the better man." Roosevelt added that "this appears to be the opinion of very many members of the bench and bar of Chicago, including the present President and late President of the Bar Association, Judge Baker, Robert Lincoln, and so forth." Despite this explanation, Landis undoubtedly received the nomination because of the political pressure that he was able to bring to bear upon the right people in Washington, including the president.[43]

Before Landis and Bethea could be confirmed, however, another new problem needed to be cleared up. In late February, charges were made accusing Judge Kohlsaat of criminal wrongdoing in a 1902 district court case. Roosevelt took the charges seriously

enough that to have the assistant attorney general, Charles A. Robb, sent to Chicago to investigate. For the two new judicial nominees, this affair posed a serious problem, as all three positions were put on hold until after the investigation. If found guilty, Kohlsaat might be impeached, but he instead might merely be prevented from moving up to the circuit court, in which case another man--someone other than Landis--would receive that position. Even if Kohlsaat was found innocent, however, the decision might not be reached until after congress adjourned on March 17, which would force Landis and Bethea to wait until December for confirmation. Landis, with his extremely fragile hold on the position, feared that something could happen between March and December to rob him of his hard-earned prize. Yet, in what was for Landis the most difficult task of the entire process, he could do nothing but wait.[44]

Assistant Attorney General Robb conducted a thorough investigation before rushing back to Washington with his conclusions. Meanwhile, Senator Cullom maneuvered to have congress held over for three days, hoping to have the candidates confirmed before his colleagues headed home. Robb reported to the president that he found Kohlsaat guilty of poor judgment, but no intentional improprieties. He further discovered that the Chicago bar believed that, if he were not promoted, Kohlsaat's usefulness as a district judge would be "either greatly impaired or wholly destroyed." To avoid future problems, Robb also investigated Landis while in Chicago, with favorable results. On March 18, 1905, Landis realized a dream which he had held through his entire adult life as the senate confirmed his nomination and appointed him as a federal judge in the District Court of the United States for the Northern District of Illinois.[45]

Notes

1. John H. Landis to the *Cincinnati Post*, 28 June 1907 ("like glue"); caption to an 1882 photo of the five Landis boys, *LPDJ*, circa 1902, clipping file, "Landis," Cass County Historical Society, Logansport, Indiana ("vaudeville quintet"); numerous letters, Mary K. Landis to KML, KML-CHS, 46-485.

2. *Logansport Pharos*, 9, 10 November 1896; "Index to Death Record," Cass County, Indiana, 1882-1920, compiled by Indiana Works Projects Administration, 1940, unpublished copy, Logansport Public Library; *LPDJ*, 10 November 1896; McCutcheon, "Kenesaw Mountain Landis," 427 ("Old Ken"); KML to Charles B. Landis, 24 February 1897, KML-CHS, 75-550; KML to Frederick Funkhouser, 2 June 1898, KML-CHS, 76-538 ("best women"). There is no indication as to what sort of a job in New York Landis turned down. Abraham left everything to Mary except $1000, which went to the oldest daughter, Katherine. The will specifically stated that Abraham did not intend to discriminate between the children, but indicated that Kate deserved it for special services which she had contributed to "me and my family." Abraham knew that his sons could care for themselves and that his other daughter, Francis, worked as a teacher. This special allotment to Kate may have been in recognition for the sacrifices that she had made--including giving up college and a career--in order to help raise her brothers. "Record of Wills," Cass County Courthouse, Book 5, p. 141.

3. Charles W. Fairbanks to Charles B. Landis, 13 January, 26 February, 16 March 1896, letterbooks, CWF-IU. For examples of his sense of humor, see the autobiography of James E. Watson, former Senator from Indiana. James E. Watson, *As I Knew Them: Memoirs of James E. Watson* (New York: Bobbs-Merrill Co., 1936), 27, 91-92.

4. KML to Thomas P. Kane, 10 August 1896, KML-CHS, 75-550 ("my brother, C.B. Landis"); KML to S.O. Pickens, 16 October 1896, KML-CHS, 75-550 ("torn up condition"); KML to Fred Landis, 5 November 1896, KML-CHS, 75-550.

5. KML to James Edward Belts, 11 January 1897, KML-CHS, 75-550 ("whatever you do"); KML to G.M. Curtis, 26 January 1897, KML-CHS, 75-550 ("pretty stiff game"); KML to Mrs. Senseney, 13 January 1897, KML-CHS, 75-550; KML to Charles B. Landis, 24 February 1897, KML-CHS, 75-550; KML to Charles B. Landis, 10 April 1897, KML-CHS, 75-550.

6. Mary K. Landis to KML, 4, 7 November 1898, KML-CHS, 33-363; Perry Heath to KML, 12 January 1899, KML-CHS, 62-603; KML to Charles B. Landis, 10 February 1899, KML-CHS, 77-542 ("talk politics"); KML to Walter K. Landis, 8 January 1900, KML-CHS, 77-542 ("gubernatorial fever," "one of the Landis boys," and "the fact is"); Charles W. Fairbanks to KML, 14 December 1901, KML-CHS, 1-12; Fairbanks to Charles B. Landis, 10 July 1902, CWF-IU; Tele., Charles B. Landis to Fairbanks, 9

November 1904, CWF-IU.

7. Charles W. Fairbanks to Walter K. Landis, 25 November 1895, CWF-IU; KML to E.L. Goldthwait, 4 May 1896, KML-CHS, 75-536; KML to Walter K. Landis, 1 September 1896, KML-CHS, 75-550; Walter K. Landis to KML, 6 October 1898, KML-CHS, 47-503 ("first American"); KML to Charles J.S. Kumler, 23 January 1903, KML-CHS, 78-243 ("I could travel with him").

8. *Who Was Who in America*, v. 1, 1897-1942 (Chicago: The A.N. Marquis Co., 1942), 701; KML to John H. Landis, 31 may 1901, KML-CHS, 77-542 ("further gave me to understand"); John H. Landis to KML, 2 January 1896, KML-CHS, 48-512 ("aldermanic belly" and "respectability and gentle birth").

9. *Logansport Pharos-Tribune*, 15 November 1934; *LPDJ*, 22 January 1890; *Directory of Logansport, Indiana, 1892-93* (Logansport: Longwell and Cummings, 1893; *Who's Who*, 1903-1905, 867; *Biographical Directory of the American Congress, 1774-1971* (United States Government Printing Office, 1971), 1259; KML to Charles B. Landis, 8 March 1897, KML-CHS, 75-550 (quotes).

10. KML to Charles B. Landis, 1 May 1897, KML-CHS, 75-550 ("fear for the future" and "criminal recklessness"); KML to Fred Landis, 1 May 1897, KML-CHS, 75-550; KML to Fred, and six letters of recommendation, 21 July 1897, KML-CHS, 76-538; KML to Charles, 26 July 1897, KML-CHS, 76-538; KML to John H. Landis, 10 August 1897, KML-CHS, 76-538; ("opinion was based"); KML to Fred, 29 December 1897, KML-CHS, 76-538; KML to Charles, 19 February 1898, KML-CHS, 76-538; KML to Walter K. Landis, 8 January 1900, KML-CHS, 77-542 ("hope he is doing something"); *East-Hampton Star*, 9 August 1907.

11. Charles W. Fairbanks to KML, 12 April 1901, ("no young man"), 4 January 1902 ("noble boy"), KML-CHS, 1-12; KML to "Kumler," 4 March 1902, KML-CHS, 77-535.

12. KML to Joseph B. Kealing, to O.A. Sprague, to F.S. Bright, 26 May 1902, KML-CHS, 78-543; KML to Walter K. Landis, 5 June 1902, KML-CHS, 78-543 (quotes); Charles W. Fairbanks to Fred Landis, 13, 17 December 1902, CWF-IU; Fred to Fairbanks, 12 November 1904, CWF-IU. An interesting photo from the convention hangs in the Cass County Historical Society. The photo shows Fred surrounded by Charlie, Kenesaw, and those who supported him through the entire ordeal. The caption reads: "Voted for Landis--1012 times."

13. Several letters, KML to A.B. Anderson, 1904-05, KML-CHS, 80-544; Christian C. Kohlsaat to KML, 6 March 1899, KML-CHS, 61-588; Peter S. Grosscup to KML, 26 July 1894, WQG-LC; Ginger, *Altgeld's America*, 158-61; Grosscup to KML, 7 December 1894, KML-CHS, 33-731; KML to Charles B. Landis, 26 July 1897, KML-CHS, 76-538; KML to John H. Landis, 5 August 1897, KML-CHS, 76-538; KML to Grosscup, 9

August 1897, KML-CHS, 76-538; KML to Salsich and Wilson, 27 June 1898, KML-CHS, 76-538; KML to Joseph Patterson, 17 May 1899, KML-CHS, 77-542 ("I haven't a brother"); "Marshall" to KML, 26 August 1899, KML-CHS, 33-731 ("your whole life"); KML to Hamilton E. Salsich, 27 October 1904, KML-CHS, 79-537.

14. *LPDJ*, 8 October 1884, 14 March 1885; Albert J. Beveridge to KML, 11 April 1893, KML-CHS, 57-572; Beveridge to KML, 14 September 1896, KML-CHS, 33-362; KML to Beveridge, 16 September 1896, KML-CHS, 75-550; KML to Charles W. Fairbanks, 14 February (month unclear) 1901, CWF-IU ("poor Beveridge").

15. Fairbanks to KML, 1 July 1900, KML-CHS, 1-12; Fairbanks to KML, 23 January 1901, CWF-IU; KML to Fairbanks, 8 February (month unclear) 1901; Fairbanks to KML, 20 June 1902, CWF-IU; Fairbanks to KML, 12 September 1902, CWF-IU; KML to Fairbanks, 9 March 1903, CWF-IU; Fairbanks to Richard Kerens, 22 August 1902, CWF-IU ("loyalty itself").

16. *Biographical Directory of the American Congress*, 1311; William T. Hutchinson, *Lowden of Illinois: The Life of Frank O. Lowden*, 2 vols., (Chicago: University of Chicago Press, 1957), 1 : 33-35, 45, 48-49; transcript of the case Attkisson v. the Fair, February 1893, KML-CHS, 50-525; *Chicago Tribune*, 28 January 1896; *Chicago Evening Post*, 29 April 1896; *Chicago Chronicle*, 30 April 1896; *Chicago Legal News*, 2 May 1896; Charles W. Fairbanks to KML, 22 August 1902, CWF-IU.

17. Peter S. Grosscup to KML, 7 December 1894, KML-CHS, 33-73. In the late-nineteenth century, wealth and social-class origins were the most important factors in being selected for the federal bench. Social and economic interests were important considerations, as were friendship and kinship connections, but partisan political activity at least created the possibility that a man of low status could reach the federal bench, a fact which Landis undoubtedly realized. Hall, "The Children of the Cabins," 464-65.

18. KML to Henry L. Bryan, 25 April 1896, KML-CHS, 75-536; KML to E.L. Goldthwait, 12 May 1896, KML-CHS, 75-536; KML to "Emory," 22 June 1896, KML-CHS, 75-536; KML to Charles B. Landis, 15 August 1896, KML-CHS, 75-550; KML to W.W. Catlin, 4 September 1896, KML-CHS, 75-550 ("ability and integrity" and "downright honest"); KML to H.V. Boynton, 9 September 1896, KML-CHS, 75-550; KML to Oscar Straus, 25 September 1896, KML-CHS, 75-550; numerous letters referring to speeches, fall 1896, KML-CHS, 42-458.

19. KML to Oscar Straus, 24 June 1897, KML-CHS, 76-538 ("serious dose"); KML to John H. Landis, 15 July 1897, KML-CHS, 76-538 ("fair prospect"); KML to Charles J.S. Kumler, 12 January 1898, KML-CHS, 76-538; KML to Walter K. Landis, 12 July 1899, KML-CHS, 77-542; KML to Jerry Matthews, 22 November 1901, KML-CHS, 77-542.

20. *Chicago Post*, about 20 February 1898, cited in Mary K. Landis to KML, 25 February 1898, KML-CHS, no box, file: 1898-1910; KML to Frederick Emory, 31 March 1898, KML-CHS, 76-538 ("difficult to conceive"); KML to F.S. Bright, 29 April 1898, KML-CHS, 76-538; manuscript written for *Chicago Legal News*, about June 1900, KML-CHS, 77-542. His patriotism and interest in the conflict stopped short of support for the war, however, and Landis never seriously considered volunteering for active duty.

21. Ginger, *Altgeld's America*, 239-40; KML to J.H Montgomery, 18 March 1897, KML-CHS, 75-550; KML to Charles Thompson, to James F. Stutsman, 27 December 1898, KML-CHS, 76-538; *Chicago Tribune*, 6 May 1905.

22. Charles W. Fairbanks to KML, 1 July 1900, KML-CHS, 1-12; KML to A.H. Bogue, 10 October 1900, KML-CHS, 77-542; Fairbanks to KML, 12 November 1900, KML-CHS, 1-12; KML to Joseph Patterson, 13 November 1900, KML-CHS, 77-542 ("saved my country"); Joseph B. Kealing, 15 November 1900, KML-CHS, 18-148; *Chicago Tribune*, quoted in, Lloyd Wendt and Herman Kogan, *Big Bill of Chicago* (New York: Bobbs-Merrill Co., 1953.), 47 (no exact citation). Lorimer served in the House of Representatives from 1895 until March 1901, and then again from 1903 until 1909. As an indication of his shady political dealings, Lorimer was elected to the Senate in 1909, but an investigation revealed massive corruption by him and his machine in the election, and he was expelled from the Senate in 1912. *Biographical Directory of the American Congress*.

Later, when Landis had made his reputation as a judge who stood above political influence, the *New York World* (11 July 1907) wrote of his alliance with the Lorimer machine, "as a politician he was attached to a coterie as unscrupulous as any that ever existed." But "although a partisan," the paper added, "he was an honset man." Thus his political career might be compared to that of Harry Truman, who similarly used a questionable political alliance to achieve his ambitions, but managed to avoid the taint of personal corruption.

23. KML to Charles W. Fairbanks, 5 January 1901, KML-CHS, 77-542 ("deplorably congested"); KML to Fairbanks, 24 February 1901, CWF-IU ("foundation").

24. KML to Charles W. Fairbanks, 5 January 1901, KML-CHS, 77-542; KML to Fairbanks, 17 January 1901, KML-CHS, 1-12; KML to Fairbanks, 21 January 1901, KML-CHS, 77-542 ("don't let them").

25. KML to Charles W. Fairbanks, 21 January 1901, KML-CHS, 77-542 ("their belief" and "altogether unselfish"); Fairbanks to KML, 24 January 1901, CWF-IU ("nothing would delight me more").

26. KML to Charles W. Fairbanks, 24 February 1901, CWF-IU.

27. KML to Charles W. Fairbanks, 24 February 1901, CWF-IU; Fairbanks to KML, 12 April 1901, CWF-IU; KML to Fairbanks, 13 April 1901, CWF-IU; Fairbanks to KML, 22 April 1901, KML-CHS, 1-12; KML to Fairbanks, 14 July (?) 1901, CWF-IU; Fairbanks to KML, 14 December 1901, KML-CHS, 1-12; KML to Fairbanks, 5 March 1902, CWF-IU ("more pleased").

28. KML to Charles W. Fairbanks, 5 March 1902, CWF-IU; Cornelious Gardiner to KML, 26 August 1902, KML-CHS, no box, no file; Len Small to KML, 23 October 1902, KML-CHS, 30-317 (quotes).

29. KML to Charles W. Fairbanks, 13 January 1903, CWF-IU; KML to Charles B. Landis, 3 February 1903, KML-CHS, 78-243 (quotes).

30. KML to Charles B. Landis, 3 February 1903, KML-CHS, 78-243; KML to Charles W. Fairbanks, 6 November (or October) 1903, CWF-IU.

31. Hutchinson, *Lowden*, 1:115-17, 120; J. McCan Davis, *The Breaking of the Deadlock* (Springfield, Ill.: Henry O. Shepard Co., 1904), 97; Frank O. Lowden to J.B. Sanborn, 8 January 1904, FOL-UC; KML to Charles W. Fairbanks, 6 November (or October) 1903, CWF-IU; KML to Mary K. Landis, 24 November 1903, KML-CHS, 78-552 ("increased number").

32. Ginger, *Altgeld's America*, 285; Wendt and Kogan, *Big Bill*, 54-57.

33. Pamphlet, "Why Chicago Businessmen Favor Frank O. Lowden for Governor of Illinois," 25 January 1904, FOL-UC; Hutchinson, *Lowden*, 1:120; William Johnson to KML, 22 January 1904, KML to International Silver Co., 19 January 1904, Homer A. Drake to Frank O. Lowden, 20 January 1904, Lowden to Dr. W.W. Hinshaw, 1 February 1904, KML to John K. Ball, John W. Hayes to KML 1 February 1904, 3 February 1904, KML to Hayes, 3 February 1904, C.W. Pavey to KML, 17 February 1904, KML to Pavey, 19 February 1904, KML to A.C. Metzger, 16 March 1904, Lowden to John A. Heusner, 16 March 1904, Orion C. Scott to KML, 24 February 1904, Alfred B. Horder to KML, 26 March 1904, KML to Horder, 28 March 1904, KML to John A. Heusner, 1 April 1904, KML to William L. Wagner, 25 April 1904, all FOL-UC; Othello F. Andrews to James R. Cowley (referred to KML) 20 October 1903, FOL-UC; KML to F.E. Rankin, 17 March 1904, KML-CHS, 79-537.

34. Wendt and Kogan, *Big Bill*, 57; Hutchinson, *Lowden*, 1:123.

35. Hutchinson, *Lowden*, 1:123-29; Wendt and Kogan, *Big Bill*, 54-65 ("that bastard"); Davis, 381-82 ("let's die game"). J. McCan Davis was a journalist who covered the entire campaign and wrote a book about the remarkable convention.

36. McCutcheon, "Kenesaw Mountain Landis," 423; KML to Joseph Cannon, 23 July 1904, KML-CHS, 79-537; KML to William Lorimer, 27 July 1904, KML-CHS, 79-537; Hutchinson, *Lowden*, 1:133.

37. Solomon H. Bethea to Shelby M. Cullom, 17, 30 December 1904, 2, 3 ("under obligation"), 25 ("it looks to me") January 1905, SMC-ISHL. Bethea also cited a recent edition of the *Federal Reporter* in which Judge Jenkins of the Wisconsin District made mention of the overcrowded courts in Chicago in one of his opinions. *Federal Reporter*, 116, (West Publishing Co., 1902), 185.

38. Mrs. Frank Lowden, diary, 12 February 1905, cited in Hutchinson, *Lowden*, 1:133; KML to George H. Binkly, 27 January 1905, KML-CHS, 79-598 (quote).
Before 1907, Roosevelt made judicial appointments based almost entirely on patronage considerations. On occasion, he refused to nominate candidates suggested by political bosses, but only if severe ideological disagreements existed, or when the honesty and ability of a potential judge was called into question and verified through a personal investigation. Raymond L. Solomon. "The Politics of Appointment and the Federal Court's Role in Regulating America: U.S. Courts of Appeal Judgeships From T.R to F.D.R.," *American Bar Foundation Research Journal*, 2 (Spring 1984): 304-09.

39. *Chicago Legal News*, 11 February 1905; Solomon H. Bethea to Shelby M. Cullom, 15, 18 February 1905, Shelby M. Cullom Papers, Illinois State Historical Library ("SMC-ISHL"); *Chicago Tribune*, 1 March 1905; *The Congressional Record*, (3 February 1905), vol. 39, pt. 2, 1817, (22 February 1905), vol. 39, pt. 3, 3064-66, (23 February 1905), vol. 39, pt. 4, 3190, (27 February 1905), vol. 39, pt. 4, 3595-96, (28 February 1905), vol. 39, pt. 4, 3657-58, (1 March 1905), vol. 39, pt. 4, 3756, (1 March 1905), vol. 39, pt. 4, 3817, (3 March 1905), vol. 39, pt. 4, 4027.

40. Solomon H. Bethea to Shelby M. Cullom, 25 January 1905, SMC-ISHL; Cyrus H. McCormick to Cullom, 7 February 1905, SMC-ISHL; Theodore Roosevelt to William Rainey Harper, 15 February 1905, Theodore Roosevelt Papers, Library of Congress ("TR-LC"); *Chicago Tribune*, 1 ("in all probability"), 8, 16, March 1905.

41. Eighteen letters and telegrams in support of KML, 27 February 1905 to 9 March 1905, Department of Justice, "Applications and Endorsements, 1901-1933," RG 60, National Archives, Washington, D.C. ("NARA-DC"); Telegram, KML to William Lorimer, 1 March 1905, KML-CHS, 79-598; Addison C. Harris to KML, 3 March 1905, KML-CHS, 25-246; Tele., KML (signing Lorimer's name with his consent) to Albert J. Hopkins, 9 March 1905, KML-CHS, 79-598; Theodore Roosevelt to Victor H. Lawson, 13 March 1905, TR-LC ("bench and bar"); KML to Charles B. Landis, 23 February 1905, KML-CHS, 79-598; Desk Diary of Theodore Roosevelt, 23 February 1905, 2, 7, 8, March 1905, TR-LC; *Chicago Tribune*, 11 March 1905; Tele., KML to Charles B. Landis, 2 March 1905, KML-CHS, 79-598; Diary of Mrs. Frank Lowden, 2-4, 18 March,

7, 11, December 1905, cited in Hutchinson, *Lowden*, 1:133; KML to F.E. Rankin, 25 February 1905, KML-CHS, 79-598 ("beyond my reach"). Roosevelt received only one letter of protest concerning Landis, to which the President replied, "some of the best men I know in Chicago have written to me that he [Landis] is temperamentally better suited for the bench than Mr. Harlan.". Roosevelt to Frank B. Noyes, 13 March 1905, TR-LC.

During the late-nineteenth and early-twentieth centuries, judgeships were routinely handed out as rewards for party service. Progressives and the legal profession considered the selection process badly in need of reform and pushed for such changes as the popular election of judges in order to remove the political aspect. Bar associations also recognized the reality of the situation, however, and tried to influence the nomination of judges through letters of recommendation and articles in professional publications. In 1905, the Chicago bar generally opposed the promotion of Judge Kohlsaat, who was perceived to be incompetent and possibly corrupt. Those lawyers were willing, though, to accept Landis, Harlan, or Baldwin for a district-court slot, as all were regarded as "good lawyers and honorable men." Mark H. Haller, "Urban Crime and Criminal Justice: The Chicago Case," *Journal of American History* 57 (1970) : 620; *The Law Register* 25 (8 March 1905) : 147, 25 (15 March 1905) : 163 (quote).

42. KML to Frank O. Lowden, quoting a telegram received from "Peck," 28 February 1905, KML-CHS, 79-598 ("Have seen Orange and Apple"); Tele., KML to Charles B. Landis, 1 March 1905, Tele., KML to William Lorimer, 2 March 1905, Tele., KML to Lowden, 2 March 1905, 3 telegrams, KML to Lowden, 6 March 1905, all KML-CHS, 79-598; Solomon H. Bethea to Shelby M. Cullom, 15, 23 February 1905, SMC-ISHL. Fairbanks, recently elected Vice-President, tried to stay above the fray in the battle for the nomination, but he quietly let the right people know which candidate he preferred.

43. Theodore Roosevelt to Victor H. Lawson, 13 March 1905, TR-LC. The exact date on which Roosevelt decided on Landis is unclear.

44. Charles H. Aldrich to Theodore Roosevelt, 24 February 1905, Roosevelt to Aldrich, 9 March 1905, Roosevelt to John H. Wigmore, 10 March 1905, William Howard Taft to Roosevelt, 10 March 1905, all TR-LC; *Chicago Tribune*, 12, 14, 15 March 1905; KML to W.S. Johnson, 13 march 1905, KML-CHS, 79-598.

45. Solomon H. Bethea to Shelby M. Cullom, 14 March 1905, SMC-ISHL; Charles H. Robb to Theodore Roosevelt, 15 March 1905, TR-LC; Robb to William H. Moody, 18 March 1905, Department of Justice, Appointment Letterbook, Letterbook 10, pp. 218-22 (quote), Moody to Roosevelt, 18 March 1905, Letterbook 10, pp. 215-17, both letters Entry 312, RG 60, NARA-DC; Roosevelt to O.H. Platt, 18 March 1905, TR-LC; Roosevelt to Christian C. Kohlsaat, 24 March 1905, TR-LC; *Chicago Tribune*, 17, 18, 19 March 1905; *Washington Post*, 19 March 1905; *Congressional Record* (Washington: Government Printing Office, 1905), 18 March 1905, vol. 40, pt. 1, 33.

CHAPTER 7
THE TWENTY-NINE-MILLION-DOLLAR FINE

By August 1907, after only two years on the bench, Kenesaw Mountain Landis had become a household name and one of the most popular men in the country. This development occurred due to his involvement in the most celebrated antitrust case of the day, the government prosecution of John D. Rockefeller and the Standard Oil Company. Landis actively sought the role as jurist on this trial, dominated every phase of the case once it began, and repeatedly made headlines across the nation for his colorful performance and his resolute stance during the proceedings. He emerged from the trial with a public reputation as "the common sense judge" who stood for *justice*, rather than the technical law which many believed was created by corporation-controlled legislators.

There was a kernel of truth to this image, as Landis used the bench to defend his perception of the first principles of America, principles which he saw as threatened by corporate power. He also firmly believed that what he was doing was right, both in terms of what *could* be done in the eyes of the law, and what *should* be done to serve the demands of the honest, hardworking Americans whom Landis knew best. The public image, however, soon outpaced this reality. Landis grew into the role, relishing his moment in the spotlight and thriving on the adulation poured on him by an admiring press. He maintained a modest and disinterested front through all of the attention, but his

statements became more truculent, his gestures more flamboyant as the case progressed and the media coverage increased. By the end of the trial, Landis had attained almost legendary status and he spent the rest of his life living up to that legend.

Before his appointment as federal district judge in March 1905, most of the world was unfamiliar with Kenesaw Mountain Landis. As a lawyer and back-room politician, he had seldom earned mention in the newspapers. Even on the day he received his appointment, the press gave him third billing behind Kohlsaat and Bethea. Both the *Chicago Tribune* and the *Chicago Legal News* printed his picture, though, along with a brief biographical sketch that focused on his service in the department of state and his association with Gresham. The photograph showed a slender, serious-looking man of thirty-eight years, with an abundance of unruly, prematurely grey hair. He was the youngest federal judge in the country, but his white hair and severe demeanor made him the perfect example of what many Americans expected a judge to look like.[1]

Landis took the oath of office in Chicago on March 28, 1905, beginning his duties that same day. The oath, which consisted of a brief declaration by the president followed by a standard statement sworn to by Landis, guaranteed him the position for the rest of his life, "during his good behavior." He agreed to uphold the Constitution against both foreign and domestic enemies and to administer justice without regard to the reputation or the degree of wealth of the people involved.[2]

Landis intended to live up to these words. He placed a bust of Lincoln in his courtroom and one of Gresham in his judge's chambers as constant reminders of the high ideals that he wished to uphold. Having developed a definite philosophy--strongly

influenced by Gresham--about what a judge should and should not do, he arranged his life in such a way that there could be no hint of a conflict of interest in his cases. Resigning from the Chicago Bar Association, the Law Club, and all of his other social and professional groups, he explained, "for reasons that are satisfactory to me, I have refrained, since my appointment to the bench, from taking membership in organizations of any kind." In addition, he caused some grumbling among many of those who had arranged for his appointment by refusing to engage in public speaking or to grant political favors. "on the theory that the best thing a judicial officer can do is to limit his activities to the administration of his court." Finally, he divested himself of all business involvements, including the possession of stocks and bonds, arguing that, "there is no telling when I might be called on to sit in a case concerning any kind of business. I think it part of my duty not to become involved in business."[3]

Thus Landis used his appointment as an opportunity to break his ties with the recent past. He had found many of these activities distasteful and had engaged in them merely to attain his judgeship. Once he had obtained the seat on the bench, he believed that, having paid his dues in advance, he was under no further obligation to those who had helped him. In any case, his appointment insulated him from retribution. He did, however, also believe that he was doing the right thing in refraining from these outside activities. Since many judges, including some of his friends, invested in stocks or various financial ventures, he could have done the same without arousing public ire. As his starting judicial salary was only $6,000 per year, less than he made as a lawyer, he

avoided financial activities at considerable personal sacrifice, especially since he continued to struggle economically.[4]

He also knew that burning his political bridges probably diminished his chances of ever attaining a high office. Giving up politics was no great sacrifice by this point, however, as he had come to view it as warfare of compromises in which true ideals were easily lost or traded away. As a man who compromised only painfully and reluctantly, he was glad to be out of the game. Despite repeated reports to the contrary, moreover, Landis never seriously considered running for public office once he had attained his judgeship. He believed that the bench allowed him to enforce the national and moral principles to which he adhered without subjecting him to the complaints of an elective constituency. This attempt to streamline his life represented, then, a sincere attempt to avoid any taint of conflicting interests while on the bench, an acceptance of the idea that he would rise no higher, and the satisfaction of a man who had realized his sumpreme ambition in life.

Within the first few months of his tenure on the bench, Landis received thorough, on-the-job training in a wide variety of cases. His elevation to the bench coincided with the opening of a new federal building in Chicago, and he heard the first cases tried in the structure, passing judgement on several minor bankruptcy cases. Previous arrangements had dictated that Landis would handle the bankruptcy portion of the case-load while, Bethea heard the more interesting criminal cases. In practice, however, the court's growing workload soon required each judge to take cases from the calendar of the other. Indeed, by autumn of 1905, the roles had been reversed with Bethea handling a majority

of the bankruptcy cases while Landis heard many of the criminal cases. Moreover, Landis occasionally sat in with the court of appeals when the required three circuit court judges were not available to review a case. He also travelled to outside districts, especially Wisconsin, to help alleviate overcrowded court dockets or to substitute when the local federal judge could not preside over a case.[5]

As a judge of the district court, Landis heard cases that involved violations of federal laws or he settled disputes between litigants from two or more states. Many of his early cases dealt with the illegal use of the mails, including either theft from letters, attempts to defraud, or the posting of objectionable material. His rulings fell especially hard on postal workers who stole from the mail, and he routinely sentenced such thieves to one to two years of hard labor for stealing as little as fifty cents from letters. He also had little patience with counterfeiters, giving one man six years for illegally minting twenty-five half-dollars. Another man received a two-year sentence for selling thirty pounds of oleomargarine without a government inspection stamp.[6]

Such harsh judgments notwithstanding, Landis also demonstrated the influence of Lincoln on his judging by tempering his judgments with humanity. In 1906, after sending three men to prison for mail theft, he pardoned a fourth man culpable of the same offense. The courtroom presence of the man's wife and small baby softened the judge, who said, "You'll spend Thanksgiving at home. After this, stay at home at night and play with the baby." Landis then wrote to a friend and secured a job for the reprieved thief. The *Chicago Record-Herald* noted this capacity of Landis for separating his concern for the law from his compassion toward criminals as human beings, holding that, in this case, the

man's family was considered in the deliberations "by Kenesaw M. Landis--not the judge." On another occasion, he served as counsel for a defendant unable to afford an attorney, advising the man how to plead in a case presented before Landis himself. This ability to feel sorry for a man, while at the same time sending him to prison, was epitomized in a letter to Theodore Roosevelt when the President asked for his views regarding the advisability of pardoning a convicted felon. Landis succinctly replied: "I can only say that my judgment was embodied in the sentence imposed in the case of this unfortunate man." Landis considered the man "unfortunate," but still believed that he should pay his full debt to society.[7]

During his first two years on the bench, Landis used the courtroom to express his brand of morality and to display his judicial independence through a unique style that captured the attention of the press and the public. When the survivors of a one-car automobile accident sued the city of Chicago for having inadequate warnings on an open drawbridge, Landis dismissed the case, using the opportunity to lecture the plaintiffs on the necessity of safe driving. "Roy Burroughs drove that machine with such recklessness," declared the judge, "that he probably would have been sent to the penitentiary had he lived." In another case he expounded his interpretation of right and wrong. When the defendant, accused of conspiring to send rubber condoms through the mail, brought in character witnesses to attest to his social standing, Landis rejected such testimony as having no weight with him, adding, "the man who keeps from wrong because of the moral wrong, rather than from fear of breaking mere statutes . . . is essentially the better man." In that same case, Landis demonstrated his impartiality by sending a former law-school

classmate to prison for his involvement in the "conspiracy." In a clear illustration of his judicial independence, he once protested the existence of a law with which he disagreed by imposing a one-cent fine on a guilty man, the lowest fine ever levied in the Chicago federal courts.[8]

Thus, Landis quickly earned a reputation as a different type of judge. At a time when most judges hid behind a mask of impartiality, trying to give the impression that they merely "found" the law in the cloudy precedents of common law, Landis appealed to principles that were more clear to many people of the Middle West. He listened closely to the facts of a case, often interrupting lawyers or questioning witnesses himself in order to get at the truth of the matter. Then he simplified the case in his mind, making comparisons to something familiar, using metaphors and analogies to obtain a firm grasp of the issues involved. Finally, he made a decision, usually based on his interpretation of common sense and natural justice--the first principles of American civilization as he saw them. His last step was to convince the public that his decision was the correct one, and Landis was a master at this skill.[9]

A large part of a judge's authority rests on, according to a leading legal historian, "the ability of judges to persuade by a process of reasoning in their opinions." Landis often gave no explanation for his decisions, believing the outcome to be so clear as to obviate that necessity. When he did explain, he used legal precedents, if they happened to coincide with his decision. When no precedent existed, he resorted to similes or anecdotes which reduced the case to basic issues or values. He usually did so in such a

logical manner, and with such an easy, folksy way of speaking, that it seemed to his listeners that there could be no other possible conclusion.[10]

During these early days on the bench, Landis first received national attention for a decision dealing with a religious community established in Zion, Illinois, near the Wisconsin border on Lake Michigan. During the 1890s, a Scottish theologian, John Alexander Dowie, had built up a large following among people all over the country, many of whom believed that he was a prophet who spoke directly to God. Beginning in 1899, he established a religious-oriented city at Zion and attempted to make the community self sufficient by constructing schools, houses, churches, and factories. By 1906, the thriving town contained about seven thousand citizens and had attracted financial contributions from all over the world. Dowie regarded these funds as his own and treated them as such. a situation that the non-religious elements of the town resented. When the case came before Landis in federal court, he ruled that, although no formal financial arrangement had been established, an implied trust had been created between Dowie and the contributors, and therefore the money belonged to the town, rather than to the theologian himself.[11]

Landis also ordered an election in Zion to select a new "General Overseer" after the man appointed to this position by Dowie took a vow in which he swore that he owed allegiance to the self-proclaimed prophet over "all family ties and obligations and all relations to all human governments." This oath struck directly at the two things held most dear by Landis--family and country--and he could barely contain his contempt for a man who "would serenely vow his readiness at all times to abandon his family and betray his country." He pronounced that Dowie's arrangement and his oath of allegiance had no

place in a democracy. He then declared Zion a trust, appointed a receiver, and set up the machinery for a new election.[12]

Landis' decision, and particularly his insistence that Zion be run on a democratic basis, drew favorable attention across the country. The *Cleveland Leader* was especially generous in its approval, editorializing that "Judge Landis . . . proved himself a man of broad, far-seeing judgement, as well as an able jurist in deciding the Dowie case. His disposition of Zion City was all that fairness and sound public policy demanded." This editor saw the case as an important one which would prevent greedy men from using religion as a front to line their own pockets. He concluded with words that would follow many of Landis' future decisions: "This is justice and common sense."[13]

The Zion case added to his growing status as the "common-sense judge," but Landis began to focus on an even larger case which would forever solidify this reputation in the minds of Americans. By late 1906, a multi-pronged attack by the department of justice against the Standard Oil Company was gathering momentum. The federal government launched seven separate prosecutions of John D. Rockefeller's mammoth company for various violations of the Interstate Commerce Act, the Sherman Anti-trust Act, the Elkins Act, or the Hepburn Act. These cases promised to garner headlines for the principals involved, and Landis hoped to be wielding the gavel when the courtroom proceedings began in Chicago.[14]

During the late-nineteenth and early-twentieth centuries, the wave of business consolidation which swept the country emerged as a major political, social, and legal issue. The problem was new and required a re-thinking of many traditional attitudes toward free

enterprise and government regulation of commerce and industry. Following the success of Standard Oil, numerous companies formed corporations, merged with others, and developed monopolies which crushed independent competitors. Small producers, farmers, independent businessmen who had been forced out of business, and many other Americans who believed they were paying higher prices because of the lack of competition began to focus on these corporations as the source of all evil. Soon muckrakers, progressives, and ambitious politicians joined in the call for reform by publicizing details of the worst abuses of the corporate giants. The words "corporation," "monopoly," and "trust" came to be used interchangeably, and almost generically, to describe anything menacing or dangerous. Accordingly, reformers of the era believed that control of these organizations promised to cure all national ills.[15]

Public hostility and insecurity among corporate capitalists caused those on both sides of the issue to turn to the courts for clarification of the legal status of trusts. On matters of corporate power, however, the law remained nebulous until well into the twentieth century. As of 1890, courts interpreted the common law as turning upon the question of "reasonable" or "unreasonable" restraint of trade, invalidating only those combinations which, in their judgment, interfered flagrantly with the public welfare. These terms and values, of course, were subject to vastly different readings, so the common law did little to remove the uncertainty surrounding the issue.[16]

As early as the 1880s, state governments began passing specific new laws designed to prohibit business practices that tended to restrain trade. As business combinations operated on a national scale, however, federal laws were seen as the only feasible solution

to monopolistic practices. Congress responded by establishing the Interstate Commerce Commission (ICC-1887) and passing the Sherman Antitrust Act (1890) in an attempt to regulate the commercial goliaths. Like the common law, the Sherman Act proved ambiguous, with its sweeping language leaving much room for interpretation. In addition, opinions differed among politicians, judges, and the public over the basic economic issues involved, and many Americans worried that stringent enforcement of antitrust legislation would hamper national business development. Finally, the traditional American respect for property rights and freedom of contract--part of Landis's beloved first principles--caused lawmakers to hesitate when considering antitrust statutes. These issues also split the Supreme Court, the ultimate arbiter on antitrust matters, to such an extent that those justices established no clear doctrine on the Sherman Act.[17]

Through the 1890s and the early years of the twentieth century, despite attempts by progressive legislators to add teeth to the ICC with the Elkins Act (1903) and the Hepburn Act (1906), skeptics still doubted that the courts would curb the power of corporations. In 1896, when the American Tobacco Company was put on trial in New York, the *Chicago Tribune* predicted glumly, "The New York grand jury has indicted leading members of the tobacco trust. It will result probably as the other similar cases--only in smoke." Reform lawyer Clarence Darrow believed that the entire appeals process was designed to help wealthy businessmen and their expensive lawyers rather than the common man, asserting that "the good lawyer does not defend poor criminals; he defends rich ones--gas companies and railway corporations." Even the clergy spoke out on the trust issue, with a prominent Chicago minister arguing that justice was frustrated by

technicalities, professional courtesy, and political pull. "The lawyers say the lazy judges are to blame for it," the clergyman contended, "and the judges put the blame on the lawyers and the poorly framed laws." He expressed the frustration of many Americans in asserting that trial law had degenerated into attempts to discover loopholes and technicalities by which wealthy lawbreakers could evade punishment. Thus, by the time Landis rose to the bench, a resentful public had abandoned hope of bringing either millionaires or their businesses to justice.[18]

The Standard Oil Company stood out as the worst villain of all. As early as 1879, John D. Rockefeller had built his petroleum company into a position of dominance in which he controlled ninety percent of the nation's refining capacity and held a large portion of the pipelines and transportation systems connected with the oil industry. He had achieved this position by persuading strong competitors to join his company and by driving weak or uncooperative refiners out of business through rate wars and the use of secret transportation rebates. By crushing independent businesses, Rockefeller outraged Americans who still valued individual achievement. Many people further believed that they paid higher prices for this commodity because of the lack of competition, especially after 1900 as petroleum products grew increasingly necessary to daily life. Journalists such as Henry Demerest Lloyd and Ida Tarbell exposed the cutthroat tactics used by Rockefeller in building his empire. Their disclosures helped to create the image of an emotionless, hypocritical predator who presented a facade of Christian ethics while at the same time destroying lives in his relentless pursuit of power and money. In the areas of the country where oil was produced and the presence of Standard Oil was most acutely

felt, parents tried to make their children behave with the warning, "Rockefeller will get you if you don't mind."[19]

For nearly thirty years, beginning in the 1870s, Standard Oil also held the legal system at bay, fending off all state and federal attempts at regulation. Company lawyers created new ways to elude or delay prosecution, making antitrust litigation increasingly expensive, complicated, and time-consuming. In addition, Standard was able to influence the political process through bribes, lobbyists, huge campaign contributions, and public relation campaigns to combat the zeal of antimonopoly reformers. The *Cleveland Plain Dealer* wrote that Standard seemed to be immune from effective prosecution, like the big man being beaten by his little wife and saying, "by all means keep it up: it doesn't hurt me and seems to amuse you."[20]

In the early 1900s, however, the federal government, led by President Roosevelt and his desire for favorable publicity, began in earnest a campaign which brought suit against a number of different combinations, but which focused particularly on Standard Oil. A consummate politician, Roosevelt straddled the trust question until after his reelection in 1904, refusing to risk losing financial supporters because of an aggressive antitrust policy. He believed that industrial combinations were inevitable and even necessary, and he fostered little faith in the legal process attaining any meaningful solutions to the trust question. In 1906, though, he judged the political situation favorable, and he attacked Standard in an attempt to paint himself as the enemy of the oil trust. Standard, as the first great corporation and the one generally perceived to be the most malevolent, made a particularly popular target, and Roosevelt sought to make his

reputation as a trust-buster by singling out Rockefeller's company for his most strenuous antitrust efforts.[21]

In May 1906, a government report from the new bureau of corporations blasted Standard as an illegal monopoly that used discriminatory favors--rebates--from railroads to control its extensive empire. In this report, federal investigators showed that the company had benefitted enormously from low, secret rates received from the railroads on oil shipped by rail. Attorney-General William H. Moody then announced that the government would use everything in its power against Standard Oil, and that it would bring to trial every possible case concerning the corporation. Within a year, the company was under siege, defending itself against prosecution in numerous state and federal courtrooms for a variety of transgressions. On August 8, 1906, federal authorities in Chicago filed an indictment accusing the company of violating the Elkins Act. The United States charged that from 1903 through 1905, the Standard Oil Company of Indiana, just one branch of the larger combination, had illegally transported its products on various railroads at rates less than those published by the carriers involved. Under the Elkins Act, a person or corporation found guilty of granting or receiving such a rebate was subject to a fine of from one to twenty thousand dollars. This particular indictment contained nearly two thousand counts, each representing the movement of one car of oil. Thus, Standard stood to lose many millions of dollars if convicted on all counts and assessed the maximum fine for each.[22]

Recognizing the opportunity to enhance his reputation, Landis desperately wanted to be the judge of record on the case. Growing up in Indiana, on the fringes of the oil

fields in which Rockefeller had earned much of his reputation, Landis was frequently exposed to both anti-monopoly sentiments in general and hatred of Standard Oil in particular. In the 1880s, an editorial in the *Logansport Daily Journal* had captured local feelings about Standard at the time that the company was buying up all of the petroleum resources and pipelines in the area. The paper warned that the towns of Indiana "should be on their guard against this remorseless monopoly," which would establish control of the industry and then "exact any tribute they desire," like all corporations in pursuit of their "enormous profits." Landis had internalized these attitudes, as evidenced by his tireless war against the meat packers in the 1890s, and maintained a close interest in the passage of the Elkins and Hepburn Acts. In April 1906, after his old nemesis the "beef trust" once again eluded conviction on a technicality, Landis wrote to Roosevelt suggesting that the case would have come out differently had he been the judge of record. Roosevelt replied favorably, agreeing that "it would indeed have been a fortunate thing for the decent elements of the country if that beef packing case had been brought before you and not before Judge [Otis] Humphrey." Thus, rather than waiting for the luck of the draw to decide whether he would hear the Chicago Standard Oil case, Landis went right to the top, proposing to the president that, if a conviction was desired, he was the man for the job. Roosevelt probably had no influence over the selection of a judge on a particular case, but when the case opened that fall, Landis was the judge of record.[23]

Throughout the last months of 1906, motions delayed the start of the trial while public interest mounted. The *Chicago Tribune* explained the intensity of interest in the Standard Oil cases, writing, "It is the oldest of trusts. It is the greatest and the most

odious. It is the one whose downfall will give the people the greatest pleasure." The paper also demonstrated that the press would not remain neutral in the struggle to come, declaring, "It is the hope of the people, on whom the trust has levied its toll for decades, that it will be beaten, so that they can have one of the necessaries of life for a reasonable price."[24]

Despite the confidence of Landis and the desires of the government, the press, and the public, there existed a real danger that the case would be dismissed on a technicality before it ever came to trial. The last big trial against a corporation, another attempt to indict the beef trust, had crumbled earlier in the year when Judge Otis Humphrey held that anyone who gave information to investigators became immune from prosecution. The meat packing executives, of course, then volunteered unimportant details simply for the purpose of obtaining immunity. This so-called "immunity bath" enraged Attorney General Moody who called the decision "monstrous" and claimed that such actions embarrassed the justice department and encouraged others to flaunt the law. It also upset Roosevelt, who expressed the hope that Landis would not follow Humphrey's example and would, at the least, decide such questions in a way that might bring the case before the Supreme Court for final disposition. The president worked closely with the prosecution team, hoping to use Standard Oil as an example to other trusts. He believed that it was essential that the company be severely punished and did not want Rockefeller to once again escape through a legal loophole.[25]

Roosevelt's fears were legitimate, as Landis faced a crucial technical question upon which the future of the trial, and indeed, the entire series of government cases against

Standard, rested. John S. Miller, the Chicago lawyer who had obtained the "immunity bath" for the beef packers, headed the defense team for Standard Oil. The key question involved two Progressive Era laws designed to enhance the power of the Interstate Commerce Commission to determine maximum railroad shipping rates. On December 10, Miller contended that the Hepburn Act, passed in 1906, actually repealed the earlier Elkins Law, upon which Standard had been indicted, and that all violations of the rebate laws which occurred before June 29, 1905 could no longer be prosecuted. If Landis agreed, his case, as well as dozens of other cases involving years of work by the department of justice, would be thrown out of court, forcing the government to start over in its war against Standard Oil. As the country awaited Landis' decision on the point, many believed that, as he had done so many times in the past, the elusive Mr. Rockefeller would slip through the grasp of the government once again.[26]

Therefore, in early January 1907, the nation's press applauded when Landis surprisingly decided against the oil magnate and ruled that the company would, after all, have to stand trial. Landis, reading into the intent of the laws, decided that congress was trying to establish control of corporations and proclaimed that the Elkins Law had been strengthened rather than repealed by the Hepburn Act. He announced that, as he saw it, "It is the duty of this court to enforce the will of Congress as expressed in the written enactment." The *New York Sun* reported, "Judge Landis brushed aside all technicalities and went at once to the heart of the question, 'What was the purpose of Congress in repealing the Elkins Law and passing a rate law still more strict and carrying heavier penalties?'" For the first time, it seemed, the government could proceed with a case

against a major corporate entity without first having to pass still more laws to plug the loopholes discovered in earlier ones. The *Chicago Examiner* called the decision "the most notable and most important legal opinion that has ever been delivered since the inauguration of the movement to regulate and control corporations by federal enactment."[27]

As newspapers across the country delighted in the discomfort of Standard and hailed the ruling, Landis became an instant celebrity. Along with the story of the case, his photograph and a biography detailing his humble origins usually appeared. Many papers printed front-page cartoons, with most of these depicting some variation of a fat, surprised-looking man, representing Standard Oil, being refused admittance to a tub, labelled "immunity bath," by a grim Judge Landis. An Atlanta man, suddenly aware of the existence of Landis and the source of his unusual name, sent the judge a unique desk ornament--a piece of a cannon ball recovered on Kennesaw Mountain. Moreover, people began to mention Landis in terms of elected office, with the *Chicago Evening Post* writing, "Political wiseacres are observing in stage whispers, 'Keep your eye on Judge Landis,' these days. They declare that the young federal judge whose ruling in the Standard Oil case has attracted the attention of the entire country has a brilliant future ahead of him."[28]

Roosevelt and officials of the Justice Department also cheered the decision. The President, although officially silent on the issue, was reported to be "elated" and "greatly pleased" by the ruling. The *Chicago Examiner* related, "There was rejoicing in official circles. The magnitude of the result was felt and appreciated at Washington and throughout the country." District Attorney Edwin Sims, heading the government's prosecution team in Chicago, spoke at length, saying that "Judge Landis has . . . put life

into the Act and made it a real power. It will come to be known as one of the sweeping decisions ever given on the subject of corporate control." Sims also summed up the nation's feelings about corporations and their tactics, adding, "Rebating has been a source of almost unlimited outrage, utterly fatal to competition, and the ruin of many honest businessmen. Its prevention is quite as necessary as is the prevention of burglary."[29]

Not everyone reacted favorably, of course, and Landis found himself repeatedly attacked by business interests who objected to his ruling. Corporate attorneys and their employers subjected Landis to enough criticism that Congressman Frank Lowden felt compelled to defend his friend publicly and to state his belief in the need for controlling the trusts. Landis thanked Lowden the for the show of support, writing, "Of course, you appreciate that you will be slandered for it. Eminent capitalists will agree that you have turned demagogue, as they agree I have become an anarchist. But you will have the consciousness that honest men will do you justice." Landis, evidently warming up to his new role as popular champion of the common man, then attacked corporation lawyers, a group to which he and Lowden had both recently belonged. "The people you and I have trained with," he railed, "regard law as a thing for other people's conduct. They think the federal court is charged with the duty of giving the little fellow the limit, and of finding some way out for the big fellow who will scorn to steal less than a million dollars." With this statement, Landis hinted that he would be something other than a completely impartial arbiter on the Standard Oil case.[30]

Through January and February 1907, Landis rejected all remaining demurrers and technical objections in peremptory fashion, proceeding to trial on March 4. The case

involved complicated questions, but centered on alleged rebates received by the Standard Oil Company of Indiana on hundreds of carloads of oil shipped between 1903 and 1905 from Whiting, Indiana to East St. Louis, Illinois and St. Louis, Missouri over the Chicago and Alton Railroad. During the six weeks of the proceedings, John Miller, the Standard attorney, often objected to the actions of the prosecution, but was overruled by Judge Landis more than five thousand times. Landis also took an unusually active role in the trial, intimidating attorneys from both sides, impatiently interrupting witnesses, and asking his own questions when he believed the lawyers were not getting to the point quickly enough. In one instance, he reprimanded a witness who seemed to be stalling, telling him, "you have no other business on earth but to answer questions. . . . Tell what a thing means when you are asked about it if you know. If you don't know, say so." Another time, when a lawyer persisted in pressing a witness for specific information about one particular railroad car several years earlier, Landis took over the questioning and quickly established that the witness could not remember the exact details. "Of course he doesn't [remember]," said Landis with a smile, "If he could remember that accurately he wouldn't be running railway trains." The public loved this no-nonsense approach to the law and became fascinated by the judge who managed to reduce this complex case to plain language, rather than resorting to incomprehensible legal jargon. Reporters, equally unschooled in legal terminology, shared this admiration, with one paper describing his speaking style as, "simple English, short words, straight from the shoulder, Anglo-Saxon."[31]

Refusing to surrender easily, Miller and Standard continued to fight tenaciously, submitting a constant barrage of objections and motions for dismissal. Their strongest

defense rested on the question of intent, as they argued that the rate Standard received from the railroad was either legal or impossible to determine due to the complicated nature of the rate schedules. Attorneys for the government objected to this approach, however, and Landis sustained them, refusing to admit such testimony before the jury on the grounds that the defendant made no real effort to discover the lawful rates. The defense did manage, however, to get several hundred counts withdrawn as not being involved in the case. In mid-April, the jury deliberated only three hours before bringing back a verdict of guilty on the remaining 1462 counts.[32]

To the public, the verdict seemed obvious and almost anticlimactic after the drama of the trial and the one-sided nature of the press coverage. Standard's lawyers, however, immediately appealed the decision, and the nation realized that, though round one had been won by the government, the battle was far from over. The jury members, who had been sequestered for six weeks, relished their brief moment in the sun, giving interviews, exchanging autographs, planning reunions, and presenting a signed, group photograph to Judge Landis. Landis accepted this and other forms of congratulations from Washington and around the country before settling down to the task of ruling on motions for a new trial and determining the fine to be assessed.[33]

According to the Elkins Act, the fine had to be a minimum of $1,462,000, at one-thousand dollars for each of the 1462 convicted violations, up to a maximum of $29,240,000, at twenty-thousand dollars per count. Landis received plenty of advice while pondering the particulars of the case and the impact that the size of the fine would have on Standard Oil and on the rest of the country. Standard, of course, still wanted the

charges dropped and, failing that, argued that they should be liable for only one count of the violation, and not 1462. A New York businessman spoke for many other people, though, in urging him to "impose the full penalty . . . and you will do more than any American can do to restore the confidence of the people in our courts and explode the power of the demagogues and win a position next to Roosevelt in the hearts of the American people." One newspaper editor wrote, "If Judge Landis cares to make himself the most popular judge that ever lived in the United States he will assess the maximum penalty." The editor then issued the challenge, "What sort of stuff is Judge Landis made of, anyway?"[34]

Undoubtedly, the judge was fully aware of these sentiments as he deliberated over the case into the summer, working on the actual computation of the fine. As most intelligent Americans either knew or suspected, Standard Oil of Indiana was but a small subsidiary of the parent company, Standard Oil of New Jersey. The latter company owned all of the stock and the entire property of the defendant. This corporate relationship posed two serious dilemmas. First, the Indiana company was a relatively small, million dollar corporation; a significant fine assessed on such a little concern would prove to be confiscatory rather than merely punitive, a situation which no one in the government wanted. Second, should Landis choose to ignore the real ownership of the smaller company and treat them as an independent concern involved in their first offense, he would have to blind himself to the truth and designate a minor fine, thus letting the corporate giant off with a figurative slap on the wrist. He knew that many Americans would object to this alternative and blame him for letting Standard off the hook. As

Landis saw it, then, his task was to prove that Standard of New Jersey was the real perpetrator of the violations and find a way to impose the fine against them.[35]

Throughout the month of June, Landis probed the labyrinthine finances of Standard Oil in order to determine the capitalization and earnings of the various branches of the company. When the defendant's counsel tried to block these efforts, the judge dropped a bombshell: he issued subpoenas compelling the appearance of the leading officials of the Standard Oil Company of New Jersey, including its president, John D. Rockefeller himself. The magnate had earlier stated that it was a citizen's duty to appear in court whenever the government called and that he would readily cooperate if summoned. He never expected an American judge to call his bluff, however, and quickly went into hiding. A comedy worthy of Mack Sennett then ensued, with federal marshals playing the roles of Keystone Kops, chasing Rockefeller around the country for a full week in an attempt to serve him a summons, while the nation's press gleefully reported each new development. Marshals surrounded Rockefeller's Cleveland home and New York offices while sightings of the businessman were reported from as far away as Washington State and Missouri. Cartoonists had a field day, picturing the distinguished celebrity cowering in bushes, cellars, and on rooftops or disguising himself in a myriad of different costumes.[36]

Across the country, this pursuit began to take on an importance larger than that of comic relief, however, as it became regarded as a microcosm of the entire quarter-century battle to bring the trusts to justice. Attorneys for Rockefeller called Landis' attempts to subpoena their client "sensationalism" and quickly petitioned the court to exempt the oil

baron because he was elderly, wealthy, busy, and uninformed about the matters in question. Landis, asserting that he was merely trying to determine if Standard Oil of New Jersey owned the Indiana company, rejected all of these excuses as being immaterial to the law. "I want Mr. Rockefeller," he stated simply to the press, adding that his adversary's avoidance of the subpoena, "shocked me because of the brazen disregard of the court's power to bring witnesses here who happen to possess money." Infuriated by this challenge to his authority, Landis explained that he was now insisting on Rockefeller's appearance because, "no sooner does he get word that he is wanted here than he starts a hide and seek game with the federal powers. I will not stand for that." Landis concluded his tirade with a patriotic contention, declaring that, "Neither Mr. Rockefeller nor any other individual in the United States is bigger than the flag. . . . There is but one way that he may avoid service. That is to move permanently out of this country."[37]

With these words and actions, Landis' stock rose another notch as articles, editorials, and cartoons praised his courageous efforts to humble the detested Rockefeller. The *Minnesota Union Advocate* wrote that "It is a positive pleasure to be able to call attention to [a judge who] has shown himself ready to dispense equal and exact justice even toward the representatives of the big corporations. It is a circumstance over which decent law-abiding men and women should rejoice." Other papers added to his growing reputation. To the *Kokomo Daily News*, Landis was, "strictly honest, [with] plenty of brains and . . . fearless in the performance of a duty." The paper added that, "Intent on doing the right thing, this former Indiana man has started out to handle fellows like Rockefeller just the same as he would an ordinary person." The *Pittsburgh Gazette Times*

wrote, "Clearly this is not a man to be trifled with or overawed." In one of the most unusual tributes, a newspaper printed the complete lyrics to a new song called "Poor John," with the following chorus:

> The sheriff took us 'round to see Judge Landis
> Judge Landis! Judge Landis!
> I said to Rogers, "Wonder what he'll hand us!"
> But didn't know the judge was looking on.
> He put me through examination; I fairly boiled with indignation;
> Then he shook his head, looked at me and said:
> Poor John! Poor John![38]

Amidst all of this gaiety, federal marshals finally served the subpoena on July 3, 1907 by tricking Rockefeller at his Massachusetts farm. The government officials pretended to leave when told that Rockefeller was not there, but sneaked back around the house to serve him when he appeared on his front porch. The capture made headlines across the nation, with the *Chicago Evening American* shouting loudest, using three-inch letters to announce, "ROCKEFELLER CAUGHT!" One publication embodied the mood of the country upon receiving the news, writing, "Every time any effort is made to place [Rockefeller] on the witness stand the Trust is willing to do almost anything but surrender its monopoly. This time there is a different sort of judge to reckon with."[39]

Upon reaching Chicago, Rockefeller lodged at a local mansion which belonged to his son-in-law, a member of the Cyrus McCormick family, thus solidifying the popular image of a tight-knit, exclusive, American ruling class. He appeared at the courthouse on July 6th surrounded by bodyguards, lawyers, and Standard Oil officials, a phalanx that forced its way through the curious, exuberant throngs which had gathered to witness the

spectacle. In what the *Chicago Examiner* called "a tableau that will live in history," Landis leaned over from his elevated position and politely but firmly fired questions at the elderly businessman about the affairs of his company. The judge conducted the questioning himself, bulldozing his way through one defense objection after another until he was satisfied that Rockefeller had revealed all of the information that he was willing to surrender. Rockefeller remained calm throughout the proceedings and declared that he knew "little or nothing" about the operations of Standard, as he had been semi-retired for the past ten years and his position as president during that time was "purely honorary."[40]

Despite the circus-like atmosphere that surrounded this drama, Rockefeller's testimony was anticlimactic and played little part in the actual determination of the fine amount. Indeed, department of justice lawyers believed that calling Rockefeller to court was an unnecessary and potentially damaging publicity stunt, as he had revealed nothing that was not already known and, under the terms of a recently passed law, his testimony gave the businessman immunity from future criminal prosecution. Landis probably recognized this fact, but could not resist the opportunity to make Rockefeller show obeisance to the power of law, as all other Americans were expected to do.[41]

To the public and the press, Landis had accomplished a great deal by symbolically humiliating the man estimated to be the richest in the world. New York's *Wall Street Bulls and Bears* hailed Landis as "a new presidential star" and characterized him as "one of those foolishly patriotic citizens who honestly believe that laws are framed for application to everybody alike, regardless of fortune or station." Other papers also saw him as a dark horse in the presidential race which was recently thrown open by the

announcement that Roosevelt would not run for re-election in 1908. To the *Zanesville (Ohio) Sunday News* he was "the intrepid Chicago man, friend of the masses, and . . . logical successor to Teddy," who would not "brook wrong doing, even if the wealthiest man in the world . . . is the offender." A Texas newspaper speculated on the implementation of the fine, stating that, should the judge impose the maximum penalty, "the people of this country will feel very much like sending Judge Landis to the White House."[42]

After the Rockefeller appearance, Landis went on vacation in Wisconsin to fish and mull over the information he had received during the previous few months. By August he had ascertained that, as everyone already suspected, the one-million dollar corporation, Standard Oil of Indiana, was owned by the parent company in New Jersey, capitalized at one-hundred million dollars, and that this massive company had achieved net earnings of two-hundred million dollars during the three years covered by the indictments. With this conclusion, he decided that the New Jersey company was the real defendant and that he would set his fine based on that company's ability to pay. Landis called court for August 3rd, at which time he would announce his decision on the amount of the fine. The *St. Louis Times* noted the sense of anticipation as the court date neared, adding, "There is a broadblown popular conviction that the Standard Oil Company is the head and front of all offending against the antitrust enactments. The public, as a mass, will chuckle if it is 'soaked' heavily."[43]

On August 3rd, Landis held the attention of the entire nation--and he made the most of it. Hordes of reporters, "stock exchange men," and interested onlookers packed the

sweltering courtroom, crowding into extra chairs brought in for the occasion. His gray head bent over a prepared manuscript, Landis read from the forty typewritten pages for nearly an hour. Despite the crowd and the potential for disruption, Landis dominated the room, with his loud, clear voice easily audible to everyone in attendance. As he started reading, the low hum of nearby conversation interrupted the judge, causing him to look up and remark sarcastically, "I am not disturbing you gentlemen, am I?" After that rebuke, the room remained so quiet that the listeners could hear the pages rustle as he turned them. Later, when titters of suppressed laughter followed his statement, "the court is obliged to confess that he is unable to indulge in the presumption that this is a virgin offense," he stilled the room by pounding his bare fist on the desk.

Throughout the address, Landis issued a scathing denunciation of the dishonesty practiced by Standard, occasionally raising his voice to emphasize particularly strong statements. He first discussed the crime, comparing the company to the type of low offenders with whom he was more familiar, asserting, "The men who deliberately violate the law wound society more deeply than does he who counterfeits the coin or steals letters from the mail." Finally, he turned to the subject of the fine. He dismissed arguments that the amount should be small because, as there was no other company which shipped oil, no one was hurt by Standard's actions. In a disgusted voice, he replied to this stance, "It is novel indeed for a convicted defendant to urge the complete triumph of a dishonest course as a reason why such course should go unpunished." Landis then stated that the New Jersey company was the real culprit and that a modest fine would encourage future violations. With the entire room holding its collective breath, he concluded, "It is the

judgement and sentence of this court that the defendant Standard Oil pay a fine of $29,240,000."[44]

The courtroom erupted in bedlam, with more than one hundred people racing for the exits, others shouting in excited voices, and Landis hammering his gavel, trying in vain to restore order. When the room finally quieted, the judge ended the remarkable day by ordering a grand jury called to consider evidence against the Chicago and Alton Railroad, which he believed to be equally guilty for its role in granting the rebates.[45]

The fine, the highest in U.S. history, created a worldwide sensation. Prosecutor Edwin Sims displayed "unconcealed joy" while new Attorney General, Charles J. Bonaparte, praised the action and predicted that, if sustained, the fine would end rebating once and for all. President Roosevelt remained officially silent, but inside sources described him as privately delighted by the decision. The amount of the fine, $29,240,000, appeared in headlines around the world as newspapers devoted several pages of coverage to the story, including photos of Landis and Rockefeller, cartoons, and articles dealing with every possible angle of the case. Many papers tried to come to grips with the enormity of the amount, comparing it to the prices of various common items, the national debt, or Landis' salary. Others computed the number of railroad cars full of silver it would take to pay the fine, or described it in terms of dollar bills laid end to end. Whatever their approach, the nation's press all agreed with the *Los Angeles Record* that the decision had, "no parallel in the history of Anglo-Saxon jurisprudence."[46]

The press generally responded in a favorable manner, heaping praise on "the fearless judge" who stood up to the mighty Goliath of Standard Oil. "The Standard Oil

Company of New Jersey has lost what little public repute it had," crowed the *Minneapolis Journal*, adding, "The mask of doubt has been torn away . . . . It has been defying law like a common felon." To a country grown accustomed to meaningless fines and cowardly judges, wrote the *Pittsburgh Leader*, "Judge Landis has done much to strengthen public respect for both the courts and the law." The *Los Angeles Evening Times* expanded on this thought in an editorial under the headline, "Judge Landis Restores Hope," writing, "In these days when public confidence in the integrity of the courts, as well as of other branches of our government, is so wobbly as to threaten the foundations of society, it is fortunate that so striking an example has been afforded of sterling honesty in official life. Let us take heart of this grace. The wicked will not always prevail." The *Springfield (Mass.) Republican* concisely summed up the public reaction, stating simply, "the judge has 'socked it' to them and the people mightily approve."[47]

Conservative elements in the country, however, castigated the fine as mere grandstanding on the part of Landis and worried about the effects on the stock market and the economy. Others warned that the price of oil would soon rise dramatically as the cost of the fine was passed on to the consumer. The *Pittsburgh Gazette-Times* called the fine "vindictive," "confiscatory," and "beyond all reason." The *New York Commercial* cautioned that formerly "safe" investments such as railroads and oil securities would suffer as a result of the fine and that a "correction of abuses should be tempered with regard for vested interests." The paper added, "there is such a thing as hysteria of reform." The *New York Times*, which led the conservative counterattack throughout the trial and its

aftermath, declared, "No theory of law or justice sustains such a thumping penalty." The *Brooklyn Eagle* damned the fine with faint praise but quoted "others" who called it "sensationalism" and "yellowism." The editor of that paper also indicated that he believed higher courts would overturn the decision, writing, "Today, however, is not the hour of reasoning. It is the hour of sensation, of excitement and of 'applause.' Tomorrow, or soon after, will come the hour of reflection, of review and of 'the sober second thought' of instituted and impartial law."[48]

Within a few days newspaper coverage shifted to speculation on the collectability of the fine and on the chances of the decision being overturned by a higher court. Standard's lawyers immediately appealed the case and began a war of words in an attempt to discredit Landis and to restore the status of the oil company. Rockefeller himself, meanwhile, seemed undisturbed, predicting confidently, "Judge Landis will be dead a long time before this fine is paid."[49]

Notes

1. *Chicago Tribune*, 19 March 1905; *Chicago Legal News*, 25 March 1905; *The World's Work*, 11 (November 1905 to April 1906) : 7465.

2. Oath of Office, 28 March 1905, Department of Justice Records, no. 358, RG 60, NARA-DC.

3. KML to Philip Rosenthal, 2 April 1906, KML-CHS, 80-544; McCutcheon, "Kenesaw Mountain Landis," 426; KML to the Chicago Bar Association, 11 October 1905, KML-CHS, 80-544; KML to Horace Tenney, 27 November 1905, KML-CHS, 80-544; KML to Charles F. Morse, 15 February 1906, KML-CHS, 80-544; KML to W.G. Edens, 15 June 1906, KML-CHS, 80-544 ("for reasons that"); KML to Augustus N. Eddy, to Dr. Frank Lightner, both 29 December 1905, KML-CHS, 80-544 ("on the theory"); KML to F.J. Joyner, 17 April 1906, KML-CHS, 80-544; KML to J.H. Bristor, 18 November 1907, KML-CHS, 80-546; KML in Kendall interview, *Chicago Tribune*, 20 November

1916 ("there is no telling"). On the other hand, Judge Bethea, appointed at the same time as Landis, continued to take part in influencing appointments and other political activities. Solomon H. Bethea to Shelby M. Cullom, 7, 24, 28 November 1905, SMC-ISHL. Landis also withdrew from cases involving his old employers or those in which he was familiar with the principle figures. *Chicago Tribune*, 1 November 1906, 4 January 1907.

4. *Chicago Examiner*, 8 July 1907 (salary). Landis' strategy to avoid even the appearance of wrongdoing may have been especially important as the muckrakers and reformers of the Progressive Era intensified their search for corruption. Other judges, including Grosscup and C.C. Kohlsaat were criticized in the press for accepting free passes on Pullman cars, another perk which Landis refused. *Chicago Tribune*, 14 November 1906.

5. *Chicago Tribune*, 19, 25 March, 23 April, 5 May, 14, 16 June, 16 August, 5 December, all 1905; KML to Charles W. Fairbanks, 24 April 1905, CWF-IU; KML to Fred Landis, 3 May 1905, KML-CHS, 80-544. The *Tribune* printed a "News of the Courts" column nearly every day which listed the day's court docket. Much of this information came from scanning these columns from March to December 1905. Neither type of case ever became the exclusive domain of one man or the other, and Landis heard both criminal and bankruptcy trials throughout his career.

The district court, the judicial level at which Landis sat, was the point of origin for federal cases. If appealed, cases advanced to the circuit court for that particular district. Generally, three circuit judges heard the appeals, but district judges often filled in when three higher justices were not available.

6. Sentencing record, U.S. District Court, Northern District of Illinois, case numbers 3644, 3654, 3692, 3694, 3696, 3708, 3709, and three with no case numbers listed, RG 21, 17-85, NARA-GL. The illegal "objectionable" materials referred to included everything from literature on contraception or open marriages to rubber condoms. Same RG, case number 3702; *Chicago Tribune*, 16 June 1905, 28 June 1905, 8 December 1906.

7. Ginger, *Altgeld's America*, 1-10; *Chicago Tribune*, 23 November 1906, 2 May 1907; *Chicago Record-Herald*, 23 November 1906 ("not the judge"); KML to Theodore Roosevelt, 23 November 1906, KML-CHS, 80-546. For more examples of this humane style of judging, in which he tempered justice with mercy, see *Chicago Inter-Ocean*, 7 July 1907.

8. *Chicago Tribune*, 4 October 1905 ("recklessness"), 8 December 1906 ("moral wrong"), 2 March 1907, 14 June 1907.

9. G. Edward White, *The American Judicial Tradition: Profiles of Leading American Judges* (New York: Oxford University Press, 1976); , 33-34, 148-49.

10. White, *American Judicial Tradition*, 82 ("process of reasoning"); *Quincy (Ill.) Daily Herald*, 4 September 1907.

11. *Baltimore News*, *Boston Herald*, *New York Globe*, *Chicago Daily News*, *Chicago Tribune*, *Chicago Chronicle*, all 27 July 1906; *Chicago Legal News*, 18 August 1906 (including full text of Landis' opinion).

12. Ibid.

13. Ibid.; *Cleveland Leader*, 29 July 1906 (quotes).

14. Roosevelt reorganized his cabinet on February 1, 1907, when the Chicago prosecution of Standard Oil was already underway. Before that date, William H. Moody served as attorney general. On February 1, Charles J. Bonaparte moved from the Navy Department to Justice and operated as attorney general through the bulk of this particular case.

15. Ginger, *Altgeld's America*, 79-80, 180-89, 284; Bruce Bringhurst, *Antitrust and the Oil Monopoly: The Standard Oil Cases, 1890-1911* (Westport, Conn.: Greenwood Press, 1979, 1. Ginger does an excellent job of demonstrating the manner in which "anti-monopoly" sentiment formed the link between many diverse reform elements of the Progressive Era. He writes (p. 284): " . . . the anti-monopoly movement was concerned with all human activities. It dealt with men's values, as [Thorstein] Veblen had done, with their education, as [John] Dewey had done, with their sympathy for others, as [Theodore] Dreiser had done, with their physical surroundings, as [Louis] Sullivan and [Frank Lloyd] Wright had done, with justice in the courts as [Clarence] Darrow had done, with honest elections, as the Municipal Voters' League had done. Anti-monopoly meant the same thing as freedom and equality, and its advocates aimed at removing all obstacles from the individual's striving toward self-fulfillment. It was this broad perspective, the heritage of Jefferson and Lincoln, that [Eugene] Debs claimed to share with Darrow and other Democrats." As to the generic quality of the terms, the newspapers of the period use the word "trust" to refer to any corrupt business or shady deal involving a large company such as "the desk trust," or "the school-book trust."

16. Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916: The Market, the Law, and Politics* (New York: Cambridge University Press, 1988.), 88-105; Bringhurst, *Antitrust and the Oil Monopoly*, 2-3.

17. Bringhurst, *Antitrust and the Oil Monopoly*, 3-7; Hall, *Magic Mirror*, 231-38; Sklar, *Corporate Reconstruction*, 117-153. According to Sklar, from 1890 to 1897, the Court favored the common law interpretation on corporations, but shifted from 1897 to 1911, holding that any restraint of trade--"reasonable" or otherwise--was illegal. These majorities, however, were so close as to require a constant retesting of the law.

18. *Chicago Tribune*, 9 May 1896 ("only in smoke"); 26 November 1906 ("lazy judges"); Ginger. *Altgeld's America*, 214-15 ("The good lawyer").

19. Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Simon & Schuster, 1991), 35-55, 78-106 ("Rockefeller will get you," p.44); Bringhurst, *Antitrust and the Oil Monopoly*, 69-71.

20. Yergin, *The Prize*, 43-55, 96-108; Bringhurst, *Antitrust and the Oil Monopoly*, 6-7; Ralph W. Hidy and Muriel E. Hidy, *History of Standard Oil Company (New Jersey): Pioneering in Big Business, 1882-1911* 2 vols. (New York: Harper & Bros., 1955), vol. I, 671-687; Allan Nevins, *Study in Power: John D. Rockefeller, Industrialist and Philanthropist*, 2 vols. (New York: Charles Scribner's Sons, 1953), vol. II, 356-364; *Cleveland Plain Dealer*, quoted in *The Literary Digest*, 30 (4 March 1905) : 1 ("By all means").

21. Bringhurst, *Antitrust and the Oil Monopoly*, 121-34, 141; Paul H. Giddens, *Standard Oil Company (Indiana): Oil Pioneer of the Middle West* (New York: Appleton-Century-Crofts Inc., 1955), 88-100.

22. *Chicago Tribune*, 9 August 1906; United States Bureau of Corporations, *Report on the Transportation of Petroleum* (Washington: Government Printing Office, 1906), xix; Hidy and Hidy, *Standard Oil*, 676-88; Bruce Bringhurst, *Antitrust and the Oil Monopoly: The Standard Oil Cases, 1890-1911* (Westport, CN: Greenwood Press, 1979), 130-38; Paul H. Giddens, *Standard Oil Company (Indiana): Oil Pioneer of the Middle West* (New York: Appleton-Century-Crofts, 1955), 101; Nevins, *Study In Power*, 356-64; Yergin, *The Prize*, 108; Court Records, Criminal Case Files, case # 3714, sub-group 17-85, RG 21, NARA-GL; Stanley D. Rose, "Judge Landis and the Standard Oil Fine--An Historical Note," *Federal Bar Journal*, 11 (January 1951) : 169. By early 1907, cases against Standard were underway in seven separate federal districts for infractions of the Sherman Act or Interstate Commerce Act. In addition, six states had cases pending against the trust in their courts.

23. *LPDJ*, 23 April 1887; KML to Charles W. Fairbanks, 13 March 1903, CWF-IU; Theodore Roosevelt to KML, 16 April 1906, TR-LC (Landis' letter to Roosevelt no longer exists, but the content of the missing missive is clearly evident from the President's reply). At this time, the people of Logansport also expressed resentment over the local activities of another corporation, U.S. Steel. A limestone quarry just outside the town provided stones used by the steel-maker in Chicago. U.S. Steel paid forty cents per ton to transport these rocks, while other companies paid eighty cents and Indiana farmers paid $1.29 per ton to ship their wheat over the same rail lines. Thus, Landis and the people he knew best had first-hand knowledge of the way in which railroads favored corporations over the small producers. *Chicago Examiner*, 11 August 1907.

It is impossible to tell whether Landis heard the case through mere happenstance or if Roosevelt exerted some influence on the situation. With only two judges in the district, there was a fifty-fifty chance that Landis would draw the case throughout the normal rotation process. Obvious questions of judicial independence are raised if the

president did indeed interfere with this process, but no evidence indicating that this happened exists, other than his letter to Landis.

24. *Chicago Tribune*, 16 November 1906.

25. *Chicago Tribune*, 21 March; 14, 15, 27 October; 1, 9 ("monstrous"), 17 December, all 1906.

26. *Chicago Tribune*, 10, 11, 12, 17, 18, December 1906, 3 January 1907; Giddens, *Standard Oil Company*, 102; Hall, *Magic Mirror*, 206, 235.

27. *Chicago Tribune*, 4, 5 January 1907; *New York Sun*, 4 January 1907; *Chicago Examiner*, 4 January 1907; Opinion on Demurrers, Criminal case files, case numbers 3715 to 3724, subgroup 17-85, RG 21, NARA-GL. One historian noted the crucial nature of Landis's decision on the entire government campaign against Standard, writing, "the far-reaching importance of of Landis' ruling could not be overestimated." Giddens, *Standard Oil Company*, 103.

28. *Chicago Record-Herald*, 4 January 1907; *Chicago Chronicle*, 5 January 1907; *Chicago Examiner*, 4 January 1907; *Cincinnati Enquirer*, 4 January 1907; *Indianapolis News*, 3 January 1907; *New York Sun*, 4 January 1907; *Chicago Evening Post*, 5 January 1907 ("political wiseacres"); *The Outlook*, 85 (19 January 1907) : 104-05; KML to W.K. Smith, 9 February 1907, KML-CHS, 80-546. The full text of the decision, without comment appeared in weekly publications, *The National Corporation Reporter*, 10 January 1907, and *Chicago Legal News*, 5 January 1907.

29. *Chicago Record-Herald*, 4 January 1907 ("elated" and "greatly pleased"); *Chicago Examiner*, 4 January 1907 ("rejoicing in official circles"); *Washington Post*, 8 January 1907 (Sims quotes).

30. Frank O. Lowden to KML, 4 February 1907, FOL-UC; KML to Lowden, 7 February 1907, FOL-UC; KML to Lowden, 1 March 1907 (quotes), FOL-UC and KML-CHS, 37-404.

31. *Chicago Tribune*, 6, 12, 15, 22 January 1907, 16 20 February 1907, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 ("no other business"), 13, 14, 15, 16, 17, 19, 20 ("Of course he doesn't"), 21, 22, 23, 24, 26, 27, 28, 30 March 1907; *Chicago Examiner*, 22 January, 4, 6, 7, 8, 11, 15, 16 March 1907, 8 July 1907; *Chicago Inter Ocean*, 22 January, 7, 9, 12 March 1907; *Chicago Chronicle*, 5 March 1907; *Chicago Record-Herald*, 6, 14, 16, 19 March 1907; *New York Herald*, 16 March 1907; *Newburgh (NY) Journal*, 11 July 1907 ("simple English").

32. *Chicago Tribune*, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14 April 1907; *Milwaukee Sentinel*, 14 April 1907; Criminal case files, case # 3717, sub-group 17-85, RG 21,

NARA-GL.

33. *Chicago Tribune*, 15 (also editorial), 16 April 1907; *Chicago Record-Herald*, 3, 4, 5, 9, 15 April 1907; *Chicago Examiner*, 4, 5, 10, 11, 15 April 1907; *Chicago Inter-Ocean*, 4, 12, 15 April 1907; *Chicago Daily News*, 15 April 1907; *Milwaukee Sentinel*, 14 April 1907; *New York Herald*, 14 April 1907; *Inter-Mountain Republican* (Salt Lake City), 15 April 1907; Jury members to KML, 15 April 1907, KML-CHS, folder 13, no box.

34. *Chicago Tribune*, 4, 5 May 1907; *Chicago Examiner*, *Chicago Inter-Ocean*, 8 May 1907; Rose, "Judge Landis and the Standard Oil Fine," 169-70; *United States v. Standard Oil Co. of Indiana*, 155 Fed. 305 (N.D. Ill. 1907), 319; Hamilton LeFlore to KML, 15 April 1907, KML-CHS, 53-557 ("impose the full"); Editorial, newspaper unknown (possibly *Chicago Examiner*), 16 April 1907, KML-CHS, scrapbook # 1, p. 23 ("What sort of stuff").

35. Rose, "Judge Landis and the Standard Oil Fine," 169-72; Charles G. Little, "Punishment of a Corporation--The Standard Oil Case," *Illinois Law Review*, 3 (1908-09) : 446-52. About this same time, during April and May 1907, Landis had to set the fine for the so-called "desk trust," a combination of school and church furniture makers which was found guilty of violating the Sherman Anti-trust Act. In some ways the situation parallelled the Standard Oil case, as three large companies spearheaded the scheme, while several smaller ones merely followed along. Rather than force the lesser companies out of business, Landis let them off with a warning or a small fine, while giving the maximum penalty to the ringleaders. He then expressed regret that he was not permitted to set a higher fine, calling their methods "contemptible." The press interpreted this move as a sample of what Landis might do with the Standard case. *Chicago Inter-Ocean*, 21, 28 May 1907; *Chicago Tribune*, 16 April, 2, 21 May 1907; *Chicago Record-Herald*, 2 May 1907; *Chicago Examiner*, 21 May 1907; *Chicago Daily News*, 22 May 1907.

36. *Chicago Tribune*, 22 December 1906 (JDR says he would willingly appear), 20, 21, 27, 28 (also editorial), 29, 30 June, 1, 2 (also editorial), 3, July 1907; *Chicago Examiner*, 20, 21, 22, 27, 28 June 1907; *Chicago Inter-Ocean*, 20, 21, 26, 29 June, 2 July 1907; *Chicago Daily News*, 19, 28 June, 1, 2 July 1907; *Chicago Evening Post*, 19, 26, 27 June 1907; *Chicago Record-Herald*, 27, 29 June 1907; *Chicago Evening American*, 2 July 1907; *New York Globe*, 26 June 1907; *New York World*, 27, 28 June 1907; *Chicago Daily Journal*, 26, 27 June 1907; *Cincinnati Enquirer*, 27 June 1907; *Indianapolis Star*, 28 June 1907; *Cincinnati Times-Star*, 29 June 1907.

37. *Chicago Examiner*, 4 July 1907 (all quotes); *Washington Post*, 29 June 1907; *Washington Star*, 29 June 1907.

38. *Chicago Daily News*, 1 July 1907; *Minnesota Union Advocate*, 5 July 1907; *Kokomo Daily News*, 2 July 1907; *Pittsburgh Gazette Times*, 29 June 1907; Unknown newspaper

clip, KML-CHS, Landis scrapbook, book 1, p. 37 ("Poor John").

39. *Chicago Tribune*, *Chicago Evening American*, *Chicago Inter-Ocean*, *Chicago Examiner*, *Chicago Record-Herald*, all 3, 4, 5 July 1907; *Cincinnati Post*, 4 July 1907; *Washington Post*, 5 July 1907; *Wall Street Bulls and Bears*, 5 July 1907 ("Every time").

40. *Chicago Record-Herald*, *Chicago Tribune*, *Chicago Inter-Ocean*, *St. Louis Times*, 6 July 1907; *New York Herald*, *Boston Globe*, *Chicago Sun*, *Boston Herald*, *New York World*, *New York Times*, 7 July 1907; *New York American*, *Montreal Daily Star*, 8 July 1907; *Chicago Examiner*, 7 July 1907 ("a tableau").

41. Nevins, *Study in Power*, 366-67; *Philadelphia Press*, 4 August 1907.

42. *Chicago Record-Herald*, 6 July 1907; *Wall Street Bulls and Bears*, 6 July 1907; *Zanesville (Ohio) Sunday News*, 7 July 1907; *Bourne (Texas) Star*, 7 July 1907.

43. Rose, "Judge Landis," 171; *Chicago Tribune*, 8 July 1907; *St. Louis Times*, 2 August 1907 ("broadblown popular conviction"). A break in his letterbook, with no official communications being written between July 9 and September 24 indicate that Landis interrupted his vacation in order to hold court on August 3. Letterbook, KML-CHS, 80-546.

44. *United States v. Standard Oil Company of Indiana*, 155 Fed. 305-321; Giddens, *Standard Oil Company*, 112. The *Chicago Evening Post*, 3 August 1907, gave the most detailed account of the days events, but every newspaper in the country covered the story and repeated some or all of the information given here. For examples, see: Chicago *Examiner*, *Daily News*, *Tribune*, *Record-Herald*, *Inter-Ocean*; New York *Morning Telegraph*, *Tribune*, *World*, *American*, *Herald*; Los Angeles *Evening News*, *Record*; Boston *Herald*, *Post*; St. Louis *Post-Dispatch*, *Globe Democrat*; *Philadelphia Record*; *Louisville Courier-Journal*; *Washington Post*; *Cleveland Plain Dealer*; *New Orleans Times-Democrat*; *Pittsburgh Dispatch*; all 3 or 4 August 1907.

45. Ibid.

46. Ibid.; Giddens, *Standard Oil Company*, 114; *Los Angeles Record*, 3 August 1907 ("no parallel"); *Chicago Record Herald*, 4 August 1907 ("unconcealed joy").

47. *Minneapolis Journal*, 3 August 1907 ("mask of doubt"); *Pittsburgh Leader*, 4 August 1907 ("public respect"); *Los Angeles Evening Times*, 3 August 1907 ("restores hope"); *Springfield (Mass.) Republican*, 4 August 1907 ("mightily approve"). Every newspaper in the country had something to say about the fine, with most of them being positive. For just a sample, see, *Oakland (Cal.) Tribune*, *Intermountain (Salt Lake City) Republican*, *New York Press*, *St. Louis Globe Democrat*, *Philadelphia North American*, *Washington Post*, *St. Louis Post*, *San Francisco Call*, all 5 August 1907. Dozens of other editorials,

demonstrating opinions on both sides of the issue, appear in the Landis scrapbooks (KML-CHS), book 1.

48. *Pittsburgh Gazette-Times*, ("vindictive"); *Denver Times*; *New York Times*, ("thumping penalty"); *Chicago Daily-Journal*; *New York Commercial*, ("hysteria of reform"); *Brooklyn Eagle*, ("Today, however"), all 3 August 1907.

49. *Chicago Record-Herald*, *Boston Globe*, *Providence (RI) Tribune*, *Boston Journal*, all 5 August 1907; *Cleveland Plain Dealer*, *Pittsburgh Press*, 4 August 1907; *Chicago Examiner*, *Chicago American*, 5 August 1907 ("Judge Landis will be dead a long time").

CHAPTER 8
AFTERMATH

Rockefeller, of course, was justified in believing that Standard Oil would never pay the twenty-nine-million-dollar fine levied by Judge Landis. He had been through all of this before and had always emerged victorious. He also recognized, however, that times were changing, and the incredible ground swell of approval for the actions of Landis indicated that the nation was growing impatient for meaningful government action against the trusts. Furthermore, the Landis fine intensified the debate over the role of corporations in American society. Landis went further than legislators had ever intended, applying the law in a severe and seemingly vindictive manner that caused thinking Americans to reassess the issue of corporate punishment.

Yet Landis believed that he had administered justice. He knew in his heart--and many Americans agreed with him--that Standard had violated the law and deserved to be punished in a significant way. As in every case he heard, he intended to assess a penalty that would accurately reflect the gravity of the crime, as he saw it, as well as the ability of the convicted to submit to the punishment. Since the Elkins Law did not provide for criminal prosecution of individuals, Landis did what he could to make the defendant feel the weight of the law. Furthermore, there existed no concrete judicial policy that he could follow. The courts, like the press, the public, and congress gave repeated mixed signals

as to what was expected in terms of the punishment of monopolies. With no clear guidelines to direct his path, Landis reverted to his instincts, folk logic, and his reading of legislative intent. Eventually, however, in his sense of outrage over the perceived violation of national first principles, he exceeded the bounds established by even the aggressive Roosevelt administration. Within a year of the announcement of the record fine, he was called on the carpet by the president, overturned by a higher court, and vilified by conservative newspaper editors across the country.

In 1907, moreover, there was no dominant strain of philosophy pertaining to the limits of judicial authority. Many judges still followed a mechanical approach in which they claimed to "find" the law as it already existed. Others were beginning to follow the theory of judicial restraint and sociological jurisprudence that would become the accepted philosophy of the first half of the twentieth century. But Landis and a few others, including Supreme Court Justice John M. Harlan, adhered to an instinctive style of judging which allowed for more individualized and creative decisions. If his judicial style was not widely accepted, then, Landis was not completely alone in his approach to the law.

In autumn 1907, in the aftermath of the record fine, both Standard and the government took their respective cases to the public. Just two days after the Landis decision, in a move that demonstrated the careful coordination between the White House, justice, and other government departments in this battle against the monopolies, the bureau of corporations blasted Rockefeller's company in a report on prices and profits in the oil industry. Trying to capitalize on the public interest generated by the fine, the agency released a summary of its findings to the nation's newspapers, which then quickly relayed

the highlights of the 965-page study to their readers. Standard, the report argued, had exorbitantly raised profits along with prices over the previous ten years, thus exploiting the American consumer in order to finance its rate wars against overseas competitors. With its findings illustrated by numerous pages of statistics and other evidence, the bureau denied claims that the oil monopoly had lowered prices in the United States, pointing to the much higher rates charged to domestic as compared to foreign customers. To average Americans, this report merely verified suspicions about Standard Oil and further persuaded them that the Landis fine was fully justified.[1]

Standard responded with a forty-page pamphlet, ostensibly addressed to employees and stockholders, but more significantly sent to every editor in the country. With this detailed defense, written in a tone of injured innocence, the company hoped to stir up public sympathy, arguing that the bureau of corporations had been prejudiced and inaccurate and that the government had unfairly singled out Standard for harassment. The brochure also reprinted thirty pages of newspaper editorials which had attacked Landis. The editors cited called the opinion "a piece of judicial sensationalism, as full of holes as an imported cheese," "playing to the galleries," "clap-trap and farce," "venom and bias," with one man seeing Landis' conduct at the trial as calculated "to advance the political and Chautauqua interests" of the judge. Finally, Standard officials pointed out that the case had been appealed, stating the hope that the higher court would "rescue the rights of the citizen from the field of public clamor and from the domain of vindictive politics." The company further asserted that the Landis decision had been obtained "upon the most hair-

splitting technicality, aided by the rigorous exclusion of evidence that would have removed all presumption of guilt."[2]

The pamphlet issued by Standard proved to be effective, causing many editors, politicians, and reformers to rethink their positions on the question of corporations. Newspapers began to show more sympathy for the oil company and to treat the entire case in a more even-handed manner. Some senators and representatives who opposed Standard recommended that Roosevelt try to have Landis reduce the fine, contending that the excessive amount was beginning to swing public opinion over to the side of the monopoly. The administration was sensitive to this shift and temporarily eased the pressure against Standard so as not to appear unfair. In addition, unsure of its chances in the appeals court and generally skeptical of the entire antitrust process, the justice department quietly began negotiations with Standard officials in an attempt to find a compromise to the exorbitant fine.[3]

Apprehension in the wake of a serious financial panic, which swept Wall Street during that autumn, also contributed to a change in attitudes toward the fine. A sharp two-day drop in the stock market followed the Landis decision and, although stock prices briefly recovered, conservatives blamed the ensuing recession on the fine and the accompanying fear that the government intended to attack other monopolies with the same vehemence with which it had pursued Standard. Less excitable observers, including Roosevelt, realized that the financial downturn was worldwide, caused by speculation and a global overexpansion of credit, but Landis made an obvious target and continued to be held accountable for the panic.[4]

While the national debate over the place of corporations in modern society and the role of government in controlling business had been raging for decades, the reality of the Landis fine took the issue out of the realm of the abstract, leading to specific discussions about the appropriate punishment for violators of antitrust laws. Some writers, of course, intent on righting the wrongs of the previous thirty-five years, insisted that the fine was just and that further retribution should be forthcoming. Others, however, believed that while Standard deserved punishment, the amount of the fine was unreasonable. Woodrow Wilson, the President of Princeton University, speaking for many reform-minded citizens, worried that the excessive fine would do more harm than good by removing twenty-nine-million dollars from circulation and adding it to the surplus of the public treasury. Wilson argued that individual responsibility was the key, with criminal prosecutions serving more effectively than fines. Still other observers expressed concern for the small stockholders who stood to lose their savings while the real culprits escaped relatively undamaged. As for himself, Landis devoted little thought to the question of who might be hurt by his monumental fine.[5]

During the process of this debate, the country began to come to terms with some of the most important issues concerning corporations and the regulation of big business. In actuality, a corporation constituted little more than a legal abstraction. Many people in the United States wanted those abstractions treated as any other being, subject to all of the considerations of a natural person, including punishment for the violation of laws. The legal system, however, contained no tangible provisions for the punishment of such abstractions until written into the statutes in the late-nineteenth and early-twentieth

centuries. These laws were generally vague, giving the courts wide latitude in determining the proper punishment. In addition, Landis's fine drove home the point that it was still unclear as to who would actually bear the weight of punishment, the ethereal corporation or the living, breathing stockholders, many of whom had little to say about the conduct of business activities.

For years, companies had used this ambiguity in the law to their advantage, sidestepping effective regulation by hiding under the protective umbrella of "the corporation." Standard itself tossed responsibility for violations back and forth between the New Jersey headquarters and various subsidiaries around the country, leaving courts helpless to pin down the blame or give the government any real control over the trusts. Landis, as well as many other students of the law, believed it was within his judicial discretion to recognize the obvious truth and punish the real offender, the parent company of New Jersey, rather than the straw man, Standard of Indiana, which had been set up merely for legal protection. But while waiting for the court of appeals to decide if he was right, the country was developing a more mature attitude toward business and the limitations of legal restrictions. Americans grudgingly recognized corporations as a reality of life but also tried to find a way for a nation built on the concept of rugged individualism to coexist with these extreme forms of organized power. Unintentionally, then, the Landis fine served to educate the general public and forced people to come to terms with one of the most important changes brought by industrialization.[6]

As this debate intensified, Landis continued to operate as if it were his personal responsibility to bring to justice every trust and rebater in the country. In August 1907,

shortly after the announcement of the fine, he tried to impanel a grand jury to hear evidence against the Chicago and Alton Railroad, the company that had granted rebates to Standard Oil. To his chagrin, the justice department then revealed that the railroad had secretly been promised immunity from prosecution in exchange for testimony in the Standard case. Landis used the newspapers as a public forum, railing with indignation against this "immunity bath" and indicating that he would not honor the government's promise. He argued that the Chicago and Alton officials had not operated in good faith, doing their best to mislead the court and jury while trying to shield Standard from the effects of their crime. Uunited States Attorney General Charles J. Bonaparte, although in partial agreement, believed that the government should not renege on its deal, as that would tend to hinder future prosecutions. Worried that Landis was becoming a loose cannon and that he might attack the administration in the press, Bonaparte also asked President Roosevelt to intervene and persuade the judge not to pursue the case against the railroad.[7]

Not wanting the situation to get out of hand, the president took the unusual step of inviting Landis to lunch at Roosevelt's home in Oyster Bay, New York. On September 6, the judge made a strong impression on Roosevelt while arguing his case stubbornly and forcefully. "He has the face of a fanatic," wrote the president, "honest, fearless, well-meaning, but tense to a degree that makes me apprehensive lest it may presage a nervous breakdown." Landis listened politely while Roosevelt spelled out the government's position and the political implications of the situation. The judge continued to insist, however, that the railroad "threw the case," with witness after witness delivering testimony

which was designed to protect Standard Oil. He convinced Roosevelt to the point that the president asked Bonaparte if it would be possible to delay action against the railroad until the results of the Standard appeal were known. In the end, however, Landis agreed to honor the pledge of immunity, and the case against the railroad was quietly dropped.[8]

While Standard's appeal dragged on into the summer of 1908, Bonaparte continued to try to negotiate a deal with John D. Archbold, the oil company's acting executive. Both sides sought what would be something of a plea bargain designed to tie a reduction of the fine and an end to similar prosecutions in the future to a dissolution or reorganization of Standard Oil. Suddenly, on July 20, Archbold broke off all negotiations. Two days later, the U.S. Circuit Court of Appeals overturned the fine.[9]

Standard had applied the shotgun approach to its appeal, listing 169 errors, each, according to its lawyers, serving as grounds for overturning the decision. The higher court called for a new trial based on only three of these points, the most important of which was the size of the fine and its application to the actual defendant, Standard Oil of Indiana, a company with total assets of only one-million dollars. Circuit Court Judge Peter S. Grosscup wrote the decision, which issued a stinging rebuke to his long-time friend, Landis. Grosscup expressed special indignation over the Landis conclusion that Standard of New Jersey was the true defendant, even though they were not formally charged, asking, "Can an American judge, without abuse of judicial discretion, condemn anyone who has not had his day in court?" Grosscup then answered his own question, saying, "That to our mind is strange doctrine in Anglo-Saxon jurisprudence. No monarch, no parliament, no tribunal of Western Europe, for centuries, has pretended to have the right

to punish except after due trial under all forms of the law. Can that rightfully be done here, on no other basis than the judge's personal belief that the party marked by him for punishment deserves punishment?" The case eventually reached the Supreme Court, where the reversal was sustained and a new trial ordered. Still smarting from the criticism, Landis refused to hear the retrial. In February 1909, a different judge directed the jury to find the defendant "not guilty," as, in his mind, the government had failed to prove its case.[10]

The fact that it was his old fishing companion, Grosscup, who reversed him stung Landis the most. He felt betrayed by the man he had once helped nurse back to health following a near-fatal illness. Moreover, Grosscup, when still a district judge, had earlier poured out his heart to Landis, complaining about an instance when the court of appeals overturned one of his cases. At that time, Grosscup threatened to quit the bench, calling the reversal "nothing short of judicial brutality," which "can only be justified upon the . . . rigid and unbending rules of law, rather than the justice of a particular case." These words haunted Landis as he brooded over the reversal, firmly believing that he had administered justice, even if his decision did not exactly comply with everyone's interpretation of the letter of the law. He broke with Grosscup, and, in private, Landis began referring to the court of appeals as "The Department of Chemistry and Microscopy."[11]

This reversal in his antitrust campaign also incensed Roosevelt, prompting him to devote large segments of several important speeches to castigating the courts as obstructions to justice and repositories of excessive power. The president had been dining at the White House with a small group of intimate friends on the night the fine was

invalidated. Infuriated by the decision, Roosevelt became even more worked up as the party discussed the reversal. Waving his fist in the air, he started to proclaim, "If I weren't President of the United States I would say that for a judge to hand down a decision like that was a . . ." Elihu Root, his secretary of state, close advisor, and the man to whom the task of keeping Roosevelt in check often fell, interrupted, saying, "What you were going to say--if you weren't President of the United States--but you are not going to say--because you are President of the United States--was that for any judge to hand down such a decision was a God damned outrage--but you are not going to say it." His fist still clenched in the air, Roosevelt let it fall to the table, responding, "You're right and I guess I won't say it."[12]

More importantly, in part because of the reversal of the Landis fine, the president changed his policy in selecting federal judges. For the first six years of his administration, Roosevelt's primary consideration in nominating judicial candidates was patronage--he selected men in order to repay or build up political debts. When the Standard fine was overturned, however, two of his appointees, Francis E. Baker and William Seaman, voted with Grosscup in upholding the appeal. Furious, Roosevelt called the two "merely the ordinary type produced by improper subserviency to corporations." Toward the end of his second term, then, he made nominations with his political agenda in mind, investigating the candidates' opinions on particular issues.[13]

Among other Americans, reactions to the Grosscup decision varied. Business elements and conservatives, with great influence in the press, responded with an "I told you so" attitude, as if they had known the outcome all along. They attacked Landis as

"playing to the galleries" and indicated that the huge fine resulted "more from a selfish desire to create a sensation than from a real desire to do justice in the case." Another segment of the country resigned itself to their belief that Standard probably broke the law, that Landis's heart was in the right place, but that Grosscup decided correctly on a purely legal basis. By far, however, the largest segment of the people supported Landis and agreed with the *Chicago Evening American* that the reversal of the fine was "the shame of the nation."[14]

The *Chicago Record-Herald* summed up this position, stating, "Without a doubt a majority of the American people believe the Standard Oil Company was guilty [and] that the fine imposed upon it by Judge Landis was a proper punishment." Several newspapers expressed the frustration of the entire country, asking simply, "What's the use?" The *South Bend Times* took this sentiment further, worrying that the decision would make it "impossible to inflict upon a corporation any punishment, or at least a penalty commensurate with its crime." The *New York World* contended that, since Standard of New Jersey had, in effect, hidden behind the false front of another name, "why should not any habitual burglar escape a sentence as an old offender by merely changing his name or taking an alias?" Others attacked Grosscup, questioning his character, accusing him of accepting free passes on railroads owned by corporations, or citing errors and misquotes used by him to overturn Landis. The *Oakland Enquirer* even resorted to an old Latin proverb to criticize the appeals judge, translating, "The judge is condemned when the guilty is acquitted."[15]

Even within the legal community, numerous supporters believed that Landis had acted correctly. The *Michigan Law Review* defended his decision, writing, "It is difficult to see upon what ground a court can say . . . [this] fine is excessive if it is shown to be inflicted for a deliberate and systematic violation of a law." This journal added that the Landis opinion, "reads as if it were the studiously temperate production of an honest man, whose moral sense has been so shocked by the situation developed as to make it difficult to avoid using much harsher and more vigorous language." Charles G. Little, a Northwestern University law professor, asserted that Landis merely treated the corporation as if it were a "natural person", rather than as an amorphous legal abstraction, thus clearly following the intentions of the lawmakers who designed the law. "The idea . . . that the corporate personality is a cloak to be worn or discarded according to the apparent demands of a particular legal situation," Little went on, "has led, and will always lead to contradiction and confusion." He argued that the Standard case and its reversal demonstrated that Landis and other judges were caught between reality and legal fiction and further called for, "some logical theory of corporate responsibility." A St. Louis attorney concluded a spirited defense of the Landis fine with, "The occasion was a great one and Judge Landis merely rose to the occasion. . . . He did his duty and should be applauded for it."[16]

Remarkably, Grosscup's decision and the debate which followed did little to change public opinion concerning Landis. If anything, the reversal confirmed the belief that Landis stood nearly alone in defending common Americans from the abuses of corporate giants and that the trusts ultimately controlled the legal system. Even though his efforts

proved to be in vain, Landis was admired and respected as the David who, although defeated by Goliath, did not back down merely because the battle looked to be futile. Both his character and the record fine grew to almost legendary proportions in the minds of many people. The *Chicago Daily News* noted that the fine was not forgotten once it was overturned, writing, "Although wiped out, the big fine remains the most picturesque in history." The *Labor Times-Herald*, of Fort Wayne, Indiana, best captured the eulogistic attitude toward the judge, exclaiming exuberantly, "And out of it all comes Judge Landis, the fearless judge, the incorruptible man encircled by a halo which all the Grosscups . . . in the universe cannot disturb and never reach."[17]

Other papers noted that his language and folk logic distinguished Landis from other judges. "The quibbling of the attorneys," wrote one, "tied the case into such unintelligible knots that Judge Landis repeatedly came to the rescue of the puzzled jurors by summing up 500-word questions in a few words that started the case on a straight track again." Another observed, "his language is so definite that it throws open his mind to inspection, and the inspection reveals his grasp of the old legal standards from which corporation lawyers have been diverting the bench." One reporter noted his penchant for telling Lincoln stories when away from the bench and wrote "The judge has an easy flow of language and readily draws from an abundant and rich vocabulary to give force and point to his anecdotes of which he seems to have a limitless supply." Finally, one paper looked closely at three separate cases which focused on the inequality of shipping rates, pointing out the judge's ability to remove "all other layers of subterfuge and verbiage" to get at the basic issues in question. "Reduced to their lowest terms," the reporter wrote,"all of his

opinions have merely declared that this system [of corporate power] is unjustly oppressive and utterly abhorrent to American ideas."[18]

In 1911, before the furor over the Landis fine had completely died out, the United States Supreme Court upheld a lower court's conviction of the Standard Oil Company on a different violation of the Sherman Anti-trust Act and ordered its dissolution. The Landis case, the fine, and the reversal played little part in this, the final act of a drama lasting more than three decades, but it did help to elevate the debate over corporations to a higher plane. For the first time, intelligent Americans on both sides of the issue had to soberly consider the impact of punishments prescribed for corporate offenders, the desirability of dismantling corporate giants, and the role which corporations played in the overall national economy. It eventually became clear that an accommodation would have to be reached which would provide the sort of government regulation which controlled the trusts while still allowing them room to make their massive contributions to the American economy. In other words, Landis unintentionally helped to refine and focus the national debate on corporations by leading people to think about the problem in realistic rather than abstract terms. The record fine did not resolve the problem, as Landis and many others had hoped; nor was it inconsequential, as his critics claimed. It altered the nature of the discussion surrounding corporations and helped to set the stage for the eventual accomodation which was worked out by the late 'teens and early 'twenties.[19]

Not all Americans, of course, thought about the corporations, or even understood the nature of the problem, in any real depth. To many middle- and working-class people--Landis among them, fed by a generation of anti-monopoly rhetoric, the problem was

simple: trusts were big, they were undemocratic, and they limited individual opportunity. Therefore, they had no place in America; they must be stopped. Finley Peter Dunne, in his usual penetrating manner, captured the essence of those people who only loosely grasped the importance of the Standard case. In a fictional conversation between two Irish-Americans, Dunne's "Mr. Dooley" exclaims, "I can't exactly make out what th' charge was . . . [but] that was a splendid fine they soaked Jawn D. with," to which "Mr. Hennesey" replies, "That's a grand fine. That's a glorious fine. I can't hardly believe it." Most Americans could not comprehend the legal technicalities surrounding the case or its reversal. What they could understand, though, was the incredible fine and the down-to-earth judge who levied it. Landis spoke their language and, on the bench, he acted as they would have, if given the chance. To these people, Landis was a national hero.[20]

Few American judges had ever attained the level of fame or popularity enjoyed by Landis. Turn-of-the-century Americans, as yet uninfluenced by the electronic media, generally reserved their adoration for military heroes, explorers, millionaires, writers, and occasional high-ranking politicians. But the Standard Oil case catapulted Landis into the national spotlight and even the reversal was unable to diminish his reputation in the eyes of his admirers. The *Chicago Examiner* called him the "most talked of person in America." The *Chicago Evening American* went one better, referring to him as the "most talked of man in the world." Common people recognized him and stopped him on the street. Supporters from Delaware to California wrote him letters to congratulate him, to ask his legal advice, to borrow money, or to invite him to make a speech. People named children after him. A New York labor organization offered him a job at more than four

times the salary he received as a federal judge. He began receiving hate mail and "Black Hand" extortion letters as the price of fame. At the GOP national convention held in Chicago in 1908, newspapers repeatedly mentioned him as being among the most prominent men in attendance, and party boosters suggested him for president, for governor, for mayor. Two years later, the press suggested that he be nominated to fill a United States Supreme Court vacancy. Beginning with the Standard Oil case, moreover, his name became almost a synonym for "fearlessness," "honesty," and integrity." He would forever afterward be known as "the twenty-nine-million-dollar judge," or as "Judge Landis, of Standard Oil fame."[21]

While unorthodox, Landis's decisions, based on folk logic and the small-town morality of the great Middle West, were also grounded in an American judicial tradition which ran from colonial times into the twentieth century. During most of the nineteenth century, Americans saw their judges as oracles who, rather than "making" the law, simply "found" it as it already existed. In this view, judges mechanically applied the rules of law to each situation, with little opportunity to insert their own opinions into the laws. John Marshall, the most important judge of the early national period, followed the precedents of common law, but also based his decisions on "fundamental" American principles found in the ideals of the Constitution, the Revolution, and natural law. Marshall believed these principles immutable and created the image of judges who stood politically aloof while discovering and declaring the law which was grounded in these fundamental tenets. This perception of the judge as oracle confined by a body of common law and guided by a system of universal and timeless truths persisted into the early twentieth century. After

the Civil War, economic interests especially favored this oracular theory of judging as it tended to support laissez-faire policies by invoking such abstract principles as the sanctity of property rights and contracts to strike down regulatory and reform legislation.[22]

Landis, with his firm belief in those same first principles, accepted a good portion of this judicial approach. The strong adherence to the precedence of common law even appealed to him because of its reliance on reasoning by analogy. In this method of judging, jurists were expected to move from the general rule to the specifics of a case syllogistically, a practice similar to the folk logic which Landis had employed his entire life. Where he differed from the majority of judges in the late-nineteenth and early-twentieth centuries, however, was his inclination to ignore precedents and decide cases based on his intuitive sense of right and wrong. He believed that his job was to serve the American people and that he could do this best by following his instincts. "[My brothers] are office holders," Landis once said, "I am a public servant." With his well-developed ego, he remained convinced that he knew what the common people wanted and needed because he was so thoroughly one of them. When determining justice, therefore, he relied on his gut feelings and his interpretation of fundamental Christian and American principles, tempering it all with a sense of humanity learned from the life of Abraham Lincoln. Landis recognized the unfairness of the world, but he strived to see that justice--as he perceived it--triumphed a fair amount of the time.[23]

Despite this reliance on his own intuition, though, many observers still perceived Landis to be behaving in proper nineteenth-century judicial fashion. In the view of many, Landis "found" the law as it already existed and interpreted it according the first principles

of the land. "He did not make those laws," the *Philadelphia North American* wrote after the Standard Oil fine, "he found them and he applied them in the manner demanded by their letter and spirit." "Examine the Landis statement," urged the *New York Press* on the same day, "and you will not only find its every line based on the eternal principles, but you will see that every vital part of the problem has been analyzed exhaustively in a dutiful and patriotic effort to get this question settled right." As late as 1907, the American public still expected their judges to rule in the style set by John Marshall a century earlier.[24]

While unusual, Landis's approach to judging was not unique. In the wake of Gilded Age demands for stability and predictability in legal cases, Charles Doe, Chief Justice of the New Hampshire Supreme Court between 1859 and 1896, insisted on maintaining flexibility in his decisions. Like Landis, Doe sought, above all, to dispense justice as he saw it. To him, reason and justice far outweighed the importance of certainty and consistency, and precedents served merely as guideposts to be used or discarded as necessity warranted. At bottom, his intuitive perception of common sense and justice overruled the dictates of previous court decisions. He examined the facts of a case and reduced the substantive legal questions to issues of simple justice involving the equity between one party and another. Therefore, he judged each case individually with little regard for precedents or formal rules. In addition, before sitting on the appellate bench, Coe had been an eccentric and informal trial judge, eschewing robes, questioning jurors and witnesses himself, creating his own rules of evidence, and giving charges to the jury in common terms rather than the technical language of law. In all of these aspects, Landis

followed a judicial style, which, if not common, was practiced by a leading jurist of the previous generation.[25]

In an era, then, when reformers and intellectuals expected their judges to apply mechanically a predictable, scientific set of legal rules, Doe and Landis adhered to an older conception of, as one historian has called it, "homespun justice." Before the complexities of a newly industrialized society had clouded legal issues, trial judges operated on a more personal basis. In small-town America, they often knew the people involved and easily understood the questions of the case. Judges would attempt to "find" the law, as the judicial style of the period dictated, but their decisions would be influenced by personal relationships and an innate sense of justice drawn from family, church, and a set of fundamental principles shared by the entire community. Landis and Doe maintained this tradition despite facing an array of new, more complicated problems. To them, the job of a judge was still, as a colonial jurist had put it, "to do justice between the parties . . . by common sense and common honesty as between man and man." To both, the ideal America existed before industrialization, and they fought to preserve that already-vanished ideal. Furthermore, they used an aggressive judicial activism in an attempt to achieve those inherently conservative results. Thus, neither man fits neatly into modern political categories of "liberal" or "conservative."[26]

John Marshall Harlan I, a contemporary of Landis who served on the United States Supreme Court from 1877 to 1911, was another judge who defied easy categorization. A good friend of Gresham who had met Landis on many separate occasions, Harlan cared little for judicial consistency, believing that each judge should decide cases based on his

individual convictions and an intuitive sense of right and wrong. He saw the federal government as a paternalistic guardian of the socially and economically underprivileged and tried to use his position to protect the weak from the strong. Like Landis, he saw this protective function as an essential part of true justice and he believed that the government should ally itself with those discriminated against by industrial combinations. This paternalistic approach often put Harlan at odds with his colleagues on the Court but won him many admirers who saw him as a firm defender of the fundamental rights of the individual.[27]

As the battle over the question of trusts raged, though, philosophical conflicts developed as traditional ideas of individual economic liberties clashed with government attempts at regulating business. The issue posed complicated problems for those seeking a consistent theory of law. For Landis and Harlan, one of the cherished first principles of the nation was that which guaranteed individual freedom in all aspects of life, including economic affairs. If this tenet contradicted their desire for greater government control of business, however, the question caused neither man much distress. Neither possessed an integrated philosophy of judging, believing instead that a judge's intuition on each specific case should be the deciding determinant. For Landis, then, a highly respected Supreme Court justice stood as constant reinforcement to the idea that his particular approach to judging was both proper and acceptable.[28]

As the twentieth century opened, though, the model of judging embodied by Landis, Doe, and Harlan was out of favor with both the legal formalists who had held sway for years and a new breed of jurists who sought an approach better suited to

industrialized America. To many reformers and legal scholars of the Progressive Era, the oracular judicial philosophy needed revision as it failed to take into account contemporary social and economic conditions. They also rejected the intuitive approach used by Landis, as they believed that method too idiosyncratic and susceptible to prejudice and corruption. Repudiating the conservatism of the mechanical approach and the presumed subjectivity of reaching decisions by intuition, judges such as Louis D. Brandeis and Oliver Wendell Holmes, Jr. developed a new style of judging which became known as "sociological jurisprudence."[29]

Brandeis, Holmes, and other legal reformers argued that jurists needed to recognize that, despite the best attempts at objectivity, judging was a political process subject to the biases of each judge. To be effective, judges must therefore purposely limit their activism on the bench. Both Brandeis and Holmes promoted judicial self-restraint as a desirable professional value, asserting that the judiciary should defer to the legislative branch, which was in a better position to perceive the social context of particular issues and respond to the needs of the nation. Brandeis also urged the use of sociological studies and other extralegal sources to help judges reach decisions, and he often used this information to support affirmative government social policies. On his part, Holmes believed that laws could only be truly understood when the emotions and the people involved had been stripped away. He regarded the law as a natural science to be studied through quantitative judgements and in which individual persons did not figure into the equation.[30]

About the time that Landis rose to the bench, then, a new judicial philosophy was taking hold, one with which he could never be comfortable. He could not blindly exercise

self-restraint in deference to legislative fiat any more than he could unquestioningly accept the dictates of common law. He would continue to hand down decisions as his heart and intuition told him. As the twentieth century engulfed his world, Landis remained steadfastly loyal to the ways of the nineteenth century because that was what he knew best. The nineteenth-century folk logic which telescoped downward syllogistically was part of an all-encompassing world-view which had guided his life since boyhood. His mind was much more suited to an approach that reduced everything to a set of basic, timeless principles than to one that weighed outside information, like Brandeis, or that seemed to disregard real people, like Holmes. To Landis, extralegal data merely clouded the real issues and confused the first principles upon which justice should be based. And, in stark contrast to Holmes, he believed that all issues and doctrines could best be understood when reduced to human terms. When facing decisions on the bench, Landis asked himself, "Is it fair to all concerned?" "Who was hurt by this?" And, ultimately, "How does this affect the *people* involved?"

This approach fit well in the America of Landis's youth, but in the twentieth century, that place no longer existed. The simple, rural, homogenous nation of his boyhood had given way to a complex, urban, pluralistic country of factories, immigrants, and corporations. Landis still looked at all cases as simple variations of one-on-one relations, but the world had become more complicated than that. When he handed down his fine on Standard Oil, he never seemed to realize that millions of people were affected, not just the two fictional persons of his abstract model. Despite having lived in Washington and Chicago, attended law school, worked in the state department, and

defended corporations, his viewpoint remained remarkably narrow and virtually personal in scope. Seemingly oblivious to the incredible changes that had occurred within the nation and his profession, he continued to base decisions on how the case affected the people he knew best, the hard-working families of the Middle West.

As nineteenth-century America slipped into the past, moreover, intellectuals began to attack the absolute truths and principles upon which Landis had based his life and his judicial decisions. Marshall had been successful in his day, in part, because the first principles to which he appealed were so widely accepted as the norms and values of American culture. By 1900, however, that consensus had collapsed as industrialization, urbanization, and immigration eroded the core values and cultural unity of the nation. In its place stood a myriad of individual interpretations of what America's first principles were and what they meant to a modern world. Some intellectuals, such as Holmes, denied the existence of any assumed truths. Holmes rejected the nineteenth-century belief in universal axioms as well as the form of folk logic employed by Landis and so many others. Laws had never been, Holmes believed, the logical result of pure, immutable principles, and should be based on the current social values and needs. Brandeis, too, argued that judges should not reason from abstract principles, but should take note of the ever-changing facts of contemporary conditions. "To an extent," wrote a legal historian, "Holmes helped make palatable a world without consensual norms, while Brandeis sought to show how governmental institutions could intervene to make that world more livable."[31]

In the early twentieth century, judging was becoming increasingly a matter of determining shades of grey, and Landis, by standing still, moved steadily away from the

mainstream of judicial theory. He was intelligent, but not an intellectual or a philosopher. His background, training, and inclination taught him to see things in terms of black and white--for him there was no grey. When the law called on judges to decide upon the "reasonableness" of corporate actions, Landis's mind was suited only to look for the right or wrong of the issue. Furthermore, like so many others of his time, he *needed* those timeless, absolute truths in order to remain grounded in a world growing more chaotic every day. Perhaps, as a religious skeptic, Landis needed them more than most. Without those immutable truths, moreover, abstractions of good and bad, right and wrong, lost their meaning. To Landis, justice itself had no meaning without those concepts to guide him. Therefore, he clung to his convictions and his first principles even as they ceased to have validity in a modern nation.

If this adherence to outdated values put Landis out of step with the primary judicial philosophy of the day, though, it only increased his standing with millions of people other than intellectuals who shared his older vision of American culture. The Standard case lifted Landis to a level of popularity enjoyed by President Roosevelt and only a handful of other Americans. While such fame is often fleeting, Landis managed to maintain his celebrity status for decades, with a journalist of the 1920s asserting, "the face of Kenesaw Mountain Landis is almost as familiar to the public as that of Charlie Chaplin." His personality played a part in this, of course, but this extraordinary popularity, coming to a man holding the relatively obscure position of district court judge, demonstrates that many Americans perceived their legal system to be out of touch with their needs and desires. They wanted courts and judges who administered justice based on questions of

right or wrong rather than on legal technicalities. Landis seemed to them to be one of the few public figures who understood this desire and acted upon it.[32]

Certainly, there existed at the time a general suspicion of lawyers, courts, and judges, especially among the lower and middle classes. After the Standard decision was overturned, many newspapers alluded to this fact, with the *Oakland Enquirer* glumly predicting that the reversal would "accentuate the popular distrust of the judiciary." To some extent, this is a timeless theme which reverberates throughout American history. People who work hard for a living often see the legal apparatus as being inept or as being used against them by the wealthy. During the late-nineteenth century, however, this perception became even more pronounced as corporations seemed to win victory after victory in the courts.[33]

In addition, as the new century opened, people in the United States seemed to be obsessed by the idea of a return to first principles. The complexities of the modern world so befuddled many Americans that they wished to go back to some imagined place in time when life was simpler, when self-sufficient people made what they consumed and lived more in tune with nature, and when everyone clearly understood what was right and what was wrong. The fact that the world had never been quite this innocent and uncomplicated did little to diminish the efforts to escape the trappings of industrialization. Many believed that the nation suffered from overcivilization and they longed for a period when nature, individuality, and "truth" had played the dominant roles in society. To their minds, the previous century had not brought progress, but instead had ushered in an era of confusion

and the deterioration of basic values. In 1899 poet Stephen Crane captured this disillusionment with progress, writing:

> I intended to see good white lands
> And bad black lands--
> But the scene is grey.[34]

This impulse toward first principles manifested itself in numerous ways. After 1900, many Americans advocated life in the outdoors, where centuries of civilization could be stripped away and people could return to a more honest, basic, and primitive world. The Boy Scouts of America and several other similar groups were formed during this period to make urban youths more familiar with the great outdoors, but also to glorify those values thought to be most easily developed in a non-industrial setting: rugged individualism, duty, and honor. Others participated in sports or "masculine" activities in an attempt to reverse the perceived "feminization" brought on by the more sedentary life of the modern city. The painters of the "ash-can" school of art, jazz musicians, and the authors who wrote in a new "naturalistic" style, all rejected the formal dictates of convention and pursued a more honest or natural form of self-expression, often featuring a primitive, unrestrained quality.[35]

The popular arts also emphasized these themes for the entertainment of millions of Americans. While intellectuals produced and discussed the art of "high culture," millions more read popular fiction or attended melodramatic plays and early films based on best-selling books. Thus, the material found in popular novels reflects common perceptions of the reading public, primarily working people of the middle class. The first best-seller lists were compiled in the 1890s, with books stressing the nostalgia of an idealized country

life dominating these rolls in the early years of this century. As a whole, writers of this genre reinforced the idea that simpler was better and that the world had grown too complicated for its own good. The conversion of many popular novels into stage plays or early motion pictures made these stories even more accessible to the general public. What they lacked in artistry, the melodramatic plays and films made up for by stressing the qualities that their audience considered important: integrity, family allegiances, chastity, and Christian virtues. They reflected real problems, but in a simplified manner which reduced the complicated issues of the day to a set of clear and basic principles.[36]

Therefore, Landis, though out of touch with the mainstream intellectual legal trends of the period, was in perfect synchronization with millions of middle Americans who shared his concern for the loss of basic values. Countless others grew up as he did and learned the same lessons early in life. This exaggerated interest in first principles was merely an attempt to artificially recreate a world where those values still had resonance. The simple dramas of these books, plays, and movies helped to assuage the frustrations and doubts of the modern age. People looked to these stories, like the folktales and ballads they heard as children, to reassure them that those first principles of Christian America still counted for something. Some of these tales also told them that the style of judging practiced by Landis, Doe, and Harlan could still work in industrialized America.

Two of the most popular novels of the period, Owen Wister's *The Virginian*, and *The Spoilers* by Rex Beach, touched on these themes and enjoyed a long life of reprints, dramatic presentations, and film versions. Both of these books portrayed a simple, honest, and courageous hero who lived the "strenuous life" in a frontier setting, and both viewed

the law in an extremely negative light. Wister's hero, known only as "the Virginian," possessed all of the characteristics which many Americans believed had been lost in the transition from an agrarian to an urban culture. While triumphing over the untamed ruggedness of the western cattle country, the soft-spoken hero showed that he was shrewd, self-reliant, quick-thinking, faithful, and incorruptible. He also, however, distrusted the legal system, preferring the simple code of frontier justice. "I have had to live in places where they had courts and lawyers so called," the Virginian stated at one point, "but an honest man was all the law you could find in five hundred miles." That he shared this sentiment with even the most respected members of his frontier society became evident when he reluctantly led a lynch mob which hunted down and hanged a cattle rustler. At that point, the leading citizen of the area, a former federal judge, launched a lengthy verbal defense of this vigilante action, arguing that the law, at its most basic level, originated with the people. If the courts prove unable or unwilling to administer justice, he contended, a citizen, "must take justice back into his own hands where it was once at the beginning of all things." He concluded his argument by saying, "Call this primitive, if you will. But so far from being a *defiance* of the law, it is an *assertion* of it--the fundamental assertion of self-governing men, upon whom our whole social fabric is based."[37]

Similarly, Beach's action-hero, Roy Glenister, and his sidekick, Joe Dextry, had little use for a formal legal system in the wilds of the Klondike frontier. In fact, a powerful distrust of the law formed a central theme of *The Spoilers*. Early in the novel, Glenister established this theme, exclaiming, "The law! Bah! Red tape, a dead language,

and a horde of shysters!" He then added that, before civilization and the "tenderfeet" arrived with the gold rush, there had been no need for courts and judges, as an unspoken code of conduct and hospitality guided the actions of all. Later, when the courts failed to provide justice, Glenister proclaims "We've tried the law, but they're forcing us back to first principles. There's going to be murder here." Then, in a chapter called "Vigilantes," the miners attacked the army put together by the corrupt officials and, as in *The Virginian*, this illegal action is justified by the author and the characters as being the only way to insure justice. After this assault, Glenister once again explained the necessity of returning to basics in a letter to his love-interest, writing, "I played the game according to your rules, but they forced me back to first principles in spite of myself." Finally, even in light of the fact that the law eventually sustained Glenister's position and restored the mines to the rightful owners, he expressed his pessimism on the chances of justice being truly served and the culprits receiving adequate punishment for their crimes, saying dejectedly, "We've thrown them off, it's true, and they won't trouble us again, but they'll never have to answer for their real infamy. That will go unpunished while their lawyers quibble over technicalities and rules of court."[38]

Thus, the popular desire for a return to first principles, also pertained to the law. To the characters in *The Virginian*, *The Spoilers*, and those in Thomas Dixon's, *The Clansman* (1905), this sometimes meant resorting to vigilantism, or stepping outside the law to restore their perception of justice. Most Americans, though, unwilling to go that far, merely wanted their law to be simplified and corrected. They believed that in its basic, most primitive form, the law had at one time decided between clear poles of right

and wrong. In this idealized, black-and-white world, the entire society shared a conception of what constituted wrongdoing and understood that violations of these rules would be punished. Many people in turn-of-the-century America, including Landis, still believed that the precepts of religion and the ideals of the Revolutionary Era should govern their world. To their perception, however, the United States had somehow drifted away from these first principles and its system of justice had grown alarmingly complicated and seemed to be easily bent to the benefit of the rich and powerful.[39]

People discontented with the legal system also longed for the type of judge who would administer "common-sense" justice. They still read the autobiography of Davy Crockett, in which, while discussing his days as a frontier judge, the legendary figure wrote, "My judgements were never appealed from, and if they had been they would have stuck like wax as I gave my decisions on the principles of common justice and honesty between man and man." Crockett proudly added that he "relied on natural born sense, and not on law learning to guide me; for I had never read a page of a law book in my life." Americans of the early twentieth century admired this approach to the law and were willing to tolerate a lack of formal training if it produced the type of justice they could understand. Judge Roy Bean, another administrator of justice on the outer edges of American civilization, had already become a national folk-hero by the time he died in 1903. In the 1880s, Bean turned an appointment as justice of the peace into a lucrative and legendary career as "The Law West of the Pecos." While many of his decisions were dismissed as arbitrary justice or "bad" law, people across the country loved him for his down-to-earth approach to jurisprudence. Bean's biographer explained this phenomena,

writing, "Maybe it wasn't good law but it was good common sense. There was common sense behind most of Roy's decisions, even the ones which at first seem most eccentric." The American public at the time thus preferred what, to them, was practical and sensible law to the so-called "good" law produced by intellectual judges and corporation lawyers. To their understanding, everyone knew what was right and what was wrong; they simply wanted judges courageous enough to ignore the convoluted letter of the technical law and to decide cases predicated on those basic principles.[40]

Kenesaw Mountain Landis proved to be just the type of judge the public sought at that time. Like millions of others, he grew up in a small, rural town and was raised on the principles of the Bible, the Revolution, and Abraham Lincoln. He shared with them a clear perception of right and wrong and a desire to see justice done. Certainly, he performed his tasks with a unique flair, a touch of the theatrical, and an eye to the response of the public. He even played down his formal legal training in order to give the impression that he, like Crockett and Bean, was self-taught in the ways of the law. All of this helped to establish his image as the judge of the common man, but he did not shape his decisions merely to curry public favor, as his critics often claimed. He based his conclusions on an innate sense of justice, and this instinctive feeling generally was right in tune with what middle America desired--largely because he was the quintessential middle American.[41]

Thus, Landis assumed his position as a judge just when many Americans believed their legal system was in crisis. While this concern over the disintegration of consensus over basic values reached a high point, legal scholars such as Holmes sought to eliminate

theological and ethical principles, as well as notions of "natural law," from the content of legal deliberations in the belief that moral postulates were too ambiguous, too individualized, and too difficult to reduce to abstract, general propositions. Therefore, Progressive Era judges purposely paid less attention to the public perception of "justice" and concentrated more on applying the principles of reason and science to the law.[42]

Landis, then, was less of a maverick judge, operating off on his own, than a throwback to an older style of jurist. Just as he had on several other important occasions in his life, he once again found himself swimming upstream against an increasingly powerful current. This time, however, his obstinence worked in his favor as the general public still believed that ethical and theological principles should play a prominent role in the law. If his decisions seemed to some to be unconventional, inconsistent, or arbitrary, that was because he reacted from the gut to each specific set of circumstances, consistently applying what he believed to be the principles of natural law and his personal interpretation of moral conduct. No legal theorist, he never compiled a complex personal philosophy of the law. Landis knew the law as well as most judges of his day, but he relied more on his instinctive sense of justice and decided cases based more upon what he *felt* than what he *thought*.

This, then, is the source of Landis's popularity and his essence as a man: he managed to remain a small-town judge during the time when an industrialized, urban culture was rapidly developing in the United States. He carried the agrarian values and Protestant ethics of his boyhood with him into his courtroom, and many Americans related more to those principles than they did to the new ones emerging in the early twentieth

century. Many people of the period, frustrated with the complexities of the modern world, desired a return to basic fundamentals in all phases of life, including the law. To them, Landis seemed to provide what they wanted: integrity, common sense, and *true* justice unsullied by technicalities. Like the popular melodramas of the day, he reduced perplexing issues to simple terms which they could easily understand. He did this by drawing on a form of folk reasoning familiar to countless others, creating metaphors and analogies to explain complicated questions of law. If his decisions were overturned, as in the Standard Oil case, that merely served to prove that the legal system had lost touch with first principles and that Landis was the last of a dying breed.

Despite the changes which were so obviously taking place all around him, Landis preferred to see America as the simple, pleasant place of his childhood. His friends John McCutcheon and George Ade, both small-town Hoosiers transplanted to Chicago, shared this basic vision. Cartoonist McCutcheon used stark line-drawings to poke fun at the world he saw. Satirist Ade used clever prose to create simple stories filled with uncomplicated characters. Like his friends, Landis saw the world in basic, two-dimensional terms with little shading or subtlety, but he used the law as his medium. No reformer, he harbored no grand designs to make the world a better place. He never saw the "big picture," or tried to impose order or organization on the nation, as progressives did. He simply retained a view of the country which was based on Logansport, Indiana of the 1880s and he operated his courtroom in accordance with the principles he learned there. His popularity stemmed from the fact that millions of other Americans came from

a thousand other Logansports. These people shared his view of America and cheered his attempts to resist the ravages of change.[43]

Notes

1. Commissioner of Corporations, *Report on the Petroleum Industry, Part II, Prices and Profits, August 5, 1907* (Washington, D.C.: Government Printing Office, 1907); *Chicago Inter-Ocean*, *Chicago Examiner*, *Chicago Record-Herald*, 5 August 1907; Nevins, *Study in Power*, 368-69; Hidy and Hidy, *History of Standard*, 689.

2. *New York Times*, *New York Tribune*, *New York World*, *Chicago Tribune*, 21 August 1907; Nevins, *Study in Power*, 370; Hidy and Hidy, *History of Standard*, 689-90; H.L. Wilgus, "The Standard Oil Fine," *Michigan Law Review*, 6 (1907-08) : 127-28 (including all of the negative editorial quotes). In order to prove that the company had been targeted by the Roosevelt administration, the pamphlet carefully traced the timing of the various reports from the bureau of corporations, the congressional struggle over the passage of the Hepburn Act, and the bringing of charges in numerous federal courts. Undoubtedly, the White House pulled all of the strings in this operation, choreographing the entire, multi-pronged attack against Standard Oil.

In another aspect of their attack against Landis, Standard began having the judge followed and sent investigators to Logansport to try to discover something incriminating or scandalous about him. Landis shrugged off these attempts to discredit him, saying, "I guess I can stand the inspection." *Chicago Record-Herald*, *New York Press*, 13 August 1907.

3. Albert Z. Carr, *John D. Rockefeller's Secret Weapon* (New York: McGraw-Hill, 1962), 153; Bringhurst, *Antitrust and the Oil Monopoly*, 138.

4. Nevins, *A Study in Power*, 464, n. 39; Theodore Roosevelt to Henry Lee Higginson, 12 August 1907, in Elting E. Morison, ed., *Letters of Theodore Roosevelt*, 6 vols. (Cambridge: Harvard University Press, 1952), vol. 5, 745-47, n. 747; William Allen White, *The Autobiography of William Allen White* (New York: Macmillan Co., 1946), 393; "A Review of the World," *Current Literature*, 18 (September 1907) : 238-39; Henry Clews to the Kentucky Bankers, quoted in *Harper's Weekly*, 51 (12 October 1907) : 1477; T.L. McWilliams to the editor, *Harper's Weekly*, 51 (26 October 1907) : 1553; *New York Times*, 1 June 1909.

5. For the issues and course of this debate, see Sklar, *Corporate Reconstruction of American Capitalism*, 179-84. Defense of the fine: Ida M. Tarbell, "Roosevelt vs. Rockefeller," *The American Magazine*, 65 (December 1907) : 117-131; no author, "Popular Rule or Standard Oil Supremacy: Which Shall it Be?," *The Arena*, 39 (March

1908) : 335-43. Wilson and others: Arthur S. Link, ed., *The Papers of Woodrow Wilson* (Princeton, N.J.: Princeton University Press, 1966-1991), vol. 17, 497-506, 582-84; *New York Press*, *New York Journal*, no date, cited in *Current Literature*, 18 (September 1907) : 240; "The Standard Oil Company," *Harper's Weekly*, 51 (17 August 1907) : 1189; Samuel Phelps Leland to editor, *Harper's Weekly*, 51 (21 September 1907 : 1373. Effect on stockholders, Frank D. Pavey, "The Standard-Oil Fine," *The North American Review*, 186 (September 1907) : 109-14; H. Smyth to editor, *Harper's Weekly*, 51 (14 September 1907) 1337.

6. For a discussion of these issues and support for Landis's position, see, Little, "Punishment of a Corporation," 446-52. In another case which also occurred in 1907, a federal judge in Texas cited many of these issues in deciding against another monopoly, The United Fruit Company. United States Circuit Court Judge A.P. McCormick ruled that corporations, "these unnatural persons as they may be called," had "devoured individual natural persons having capacity and inclinations for trade." He also condemned the use of company lawyers whose only job was to delay justice and prevent enforcement of the antitrust laws against "these highly organized unnatural persons." He concluded with a note which might have come from Landis, warning other judges not to ignore the real persons involved and to aid the state "by withholding help or grace from graceless and hurtful acts." In 1909, McCormick was overturned by Oliver Wendall Holmes, Jr. and the Supreme Court, in a unanimous decision. John T. Noonan, Jr., *Persons and Masks of the Law: Cardoza, Holmes, Jefferson, and Wythe as Makers of the Masks* (New York: Farrar, Straus, and Giroux, 1976), 97-98.

7. *Chicago Tribune*, 6, 13 August 1907; *Chicago Daily News*, 13 August 1907; *Chicago Daily-Journal*, *Chicago Evening Press*, *New York Press*, 14 August 1907; *Chicago Record-Herald*, 15 August 1907; Theodore Roosevelt to Charles J. Bonaparte, 17 August 1907, 3 September 1907, *Letters of Theodore Roosevelt*, vol.5, 757-58, 779, n. 758, 779; *Baltimore Sun*, 9 September 1907; Bonaparte to Edwin W. Sims, 20 September 1920, KML-CHS, no box, no file.

8. Telegram, William Loeb, Jr. (private Sec. to TR) to KML, 4 September 1907, KML-CHS, 18-145; Theodore Roosevelt to Charles J. Bonaparte, 6 September 1907, *Roosevelt Letters*, vol. 5, 784-85 (quotes); "The Department of Injustice," *Harper's Weekly*, 51 (31 August 1907) : 1260-61; *Chicago Daily News*, *Chicago Evening Post*, 24 September 1907. Roosevelt hoped that by delaying action, the Justice Department would prosecute only if the Standard case were overturned and the obstructive tactics of the railroad company had proven effective.

Roosevelt and Landis probably had met two years earlier, at a Chicago banquet honoring the president, when they both sat at the speakers table. They apparently did little more than shake hands on that occasion, however, and Roosevelt had forgotten the meeting by 1907. *Chicago Tribune*, 10 May 1905; Banquet Program, KML-CHS, 47-508.

9. Bringhurst, *Antitrust and the Oil Monopoly*, 138-39.

10. Giddens, *Standard Oil Company*, 118-20; Carr, *Secret Weapon*, 153; Rose, "Judge Landis and the Standard Oil Fine," 172-73; *The Outlook*, 89 (1 August 1908) : 733-35; *Standard Oil Co. of Indiana v. United States*, 164 Fed. 376-89 (7th Cir. 1908); Court Records, Criminal Case File 3717, sub-group 17-85, RG 21, United States District Court Records, Northern District of Illinois--Eastern Division, NARA-GL.

11. Peter S. Grosscup to KML, 7 December 1894, KML-CHS, 33-731 ("judicial brutality"); Pringle, "Portrait of a Bench Warmer," 615-16 ("microscopy").
Months before the reversal, Grosscup had started a petty dispute over office space in the Federal Building, thus indicating that he may have been feeling some jealousy over the attention that Landis had received in the Standard Oil case. Landis had written to Washington requesting the use of a vacant office, while Grosscup believed he should have first been consulted. He regarded this slight as a personal insult, writing, "Indeed such a proceeding is to entirely ignore the Circuit Court and its clerk, and inferentially, the judges." This incident helps to explain the personal vituperation expressed by Grosscup toward Landis in his decision. Grosscup to John C. Ames, 21 April 1908, KML-CHS, 33-731. Landis had been overturned only once before, on a minor contempt charge issued against an attorney in a bankruptcy case. *Chicago Tribune*, 3 January 1907.

12. Pringle, *Theodore Roosevelt* (New York: Harcourt, Brace, & Co., 1931; Paperback reprint: Harvest Books, 1956), 336-38; Nevins, *Study in Power*, 368-69; Philip C. Jessup, *Elihu Root*, vol. 2, *1905-1937* (New York: Dodd, Mead, & Co., 1938), 179-80 (anecdote).

13. Solomon, "The Politics of Appointment," 304-13 (Roosevelt quote, 313.)

14. Giddens, *Standard Oil Company*, 119-20. Pleased with reversal: New York *Herald*, *Tribune*, *Times*, *Mail*, all 23 July 1908; unsigned letter, no date, but included newspaper clipping of the reversal, KML-CHS, 45-477 ("playing to the galleries"). William A. Gardner, in an article written for the *Central Law Journal*, later highlighted in the *St. Louis Post Dispatch*, 17 August 1908, and reprinted in its entirety in the *Chicago Legal News*, 2 January 1909, defended Landis, but first summarized the general impression among conservatives ("selfish desire to create a sensation"). Despite the strong statements in the press, Standard's willingness to negotiate indicates that they and other conservatives were not completely confident that the appeals court would decide in their favor, making much of this attitude seem like false bravado after the fact.

Standard guilty, but Grosscup correct: an article in the *Chicago Inter-Ocean*, 23 July 1908, best captures this position, summarizing the opinions of several Washington and Wall Street lawyers.

Supported Landis: *Chicago Evening American*, 29 October 1908; Chicago *Inter-Ocean*, *Tribune*, *Record-Herald*, all 23 July 1908; *New York World*, 23 July 1908; *The*

Outlook, 89 (1 August 1908) : 733-35; Carr, *Secret Weapon*, 153.

15. *Chicago Record-Herald*, 25 July 1908 ("Without a doubt"); *Chicago Tribune*, *Indianapolis News*, 24 July 1908 ("What's the use?"); *South Bend Times*, 25 July 1908 ("impossible to inflict"); *New York World*, 23 July 1908 ("habitual burglar"); *Oakland (CA) Enquirer*, 23 July 1908 (Latin proverb); *Cincinnati Post*, 24 July 1908; Chicago *Examiner*, *Tribune*, *Inter-Ocean*, 24 July 1908; *Chicago Evening American*, 23 July 1908. The original Latin proverb, attributed to Syrus, reads, "Judex damnatur cum nocens absolvitur."

16. Wilgus, "The Standard Oil Fine," 126 ("difficult to see"); Little, "Punishment of a Corporation," 446-53; Gardner, multi-cited article, see note 13 ("rose to the occasion").

17. Pringle, "Portrait of a Bench Warmer," 615-16; *Chicago Daily News*, 23 July 1908 ("picturesque"); *Labor Times-Herald* (Fort Wayne, Indiana), 24 July 1908 ("encircled by a halo"). Throughout Landis's life, admiring writers added to the legend by citing the Standard case as an example of his fearlessness and integrity, but neglecting to mention the reversal of the fine. See, French, "Kenesaw Mountain Landis," 34; Brougham, "America's Erratic Judge," 10; obituary, unidentified newspaper clipping, Landis file, Cass County Historical Society, Logansport, Indiana; Harold L. Ickes, *The Autobiography of a Curmudgeon* (New York: Reynal & Hitchcock, 1943), 219.

18. *Chicago Inter-Ocean*, 7 March 1907 ("quibbling of the attorneys"); *The Public*, 10 August 1907 ("his language is so definite"); *Quincy (Ill.) Daily Herald*, 4 September 1907 ("easy flow of language"); *Chicago Examiner*, 11 August 1907 ("subterfuge and verbiage"), 8 July 1907. For other comments on his use of language and ability to reduce issues to a simple level, see, *Washington Post*, 8 July 1907; *Chicago Daily News*, 11 September 1907; *Fairmount (Ind.) Semi-Weekly News*, 27 September 1907.

19. Carr, *Secret Weapon*, 155-59.

20. Finley Peter Dunne, in *Chicago Record-Herald*, 18 August 1907.

21. Clive James, *Fame in the Twentieth Century*, (New York: Random House, 1993), 13, 26-37; *Chicago Examiner*, 6 August 1907, 11 August 1907 ("in America"), 17 June 1908; *Chicago Evening American*, 10 August 1907 ("in the world"); *Dallas Morning News*, 11 August 1907; many letters, KML letterbook, 1907, KML-CHS, 80-546; *Chicago Record-Herald*, 6, 8 August 1907, 3 December 1907; KML to Dr. and Mrs. Wolcott, 25 May 1908, KML-CHS, 80-546; KML to J.S. Curry, 13 June 1910, KML-CHS, 80-541; KML to Bert Ross, 22 January 1917, KML-CHS, 81-545; many letters, KML-CHS, 32-341; KML to Mrs. H.H. Marks, 23 December 1920, KML-CHS, 83-547; anonymous to KML, 4 September 1907, KML-CHS, no box, file 1898-1910; P.E. Jr. to KML, 19, 20 August

1907, KML-CHS, no box, file 1898-1910; "Black Hand" letters, no date, KML-CHS, 63-570; *Chicago Tribune*, 11 June 1908; *Chicago Inter-Ocean*, 5 August 1907; *Memphis News-Scimitar*, *Washington (D.C.) Times*, 15 September 1907; *Bay City (MI) Times*, 16 September 1907; KML to FOL, 29 October 1907, quoted in Hutchinson, *Lowden*, 177-78; *Terre-Haute Press*, 9 December 1910; Ickes, *Autobiography*, 219-20; KML to L.G. Lakey, 6 May 1919, KML-CHS, 82-406; McCutcheon, "Kenesaw Mountain Landis," 423; Pringle, "Portrait," 619; Kendall, interview with KML; French, "Kenesaw Mountain Landis," 132-33.

22. G. Edward White, *The American Judicial Tradition*, 2-10, 33-35, 85-86, 106-07, 112-27; White, *Patterns of American Legal Thought* (New York: The Bobbs-Merrill Co., Inc., 1978), 8; Johnson, *American Legal Culture*, 20-24.

23. White, *American Judicial Tradition*, 60; White, *Patterns of American Legal Thought*, 8; McCutcheon, "Kenesaw Mountain Landis," 427 ("public servant").

24. *Philadelphia North American*, *New York Press*, 5 August 1907.

25. White, *American Judicial tradition*, 113-28.

26. White, *American Judicial Tradition*, 122-28 ("homespun justice," 126); Judge John Dudley, quoted in Daniel J. Boorstin, *The Americans: The Colonial Experience* (New York: Random House, 1958), 201 ("to do justice"); White, *Patterns of American Legal Thought*, 20.

27. White, *American Judicial Tradition*, 129-45; Calhoun, *Gilded Age Cato*, 37, 45, 47, 67, 72, 85-86.

28. White, *American Judicial Tradition*, 138, 144.

29. White, *American Judicial Tradition*, 151-55, 176; Hall, *Magic Mirror*, 223-24.

30. White, *American Judicial Tradition*, 151-77; Hall, *Magic Mirror*, 223-24; Johnson, *American Legal Culture*, 15-17, 29-46, 129; John T. Noonan, Jr., *Persons and Masks of the Law: Cardozo, Holmes, Jefferson, and Wythe as Makers of the Masks* (New York: Farrar, Straus, and Giroux, 1976), 65-72, 109-10. Probably the most influential proponent of sociological jurisprudence was Roscoe Pound, professor and dean at the Harvard Law School. Through his teaching and his legal scholarship in the first third of the twentieth century, Pound convinced a generation of lawyers and judges of the importance of social and economic factors in the law.

31. White, *American Judicial Tradition*, 146-177 (quote, 175). Also see, generally, Wiebe, *Search For Order*.

32. Pringle, "Portrait," 615; Sklar, *Corporate Reconstruction of American Capitalism*, 99-100.

33. *Oakland (CA) Enquirer*, 23 July 1908 (quote); *Chicago Daily News*, 15 April 1907; Melvin I. Urofsky, "State Courts and Protective Legislation During the Progressive Era: A Reevaluation," *Journal of American History*, 72 (June 1985): 63-68; Theodore Roosevelt, "Criticism of the Courts," *The Outlook*, 24 September 1910, 149-53.

34. Roderick Nash, ed., *The Call of the Wild (1900-1916)* (New York: George Braziller, 1970), 2-3; Thomas L. Connelly, *The Marble Man: Robert E. Lee and His Image in American Society* (Baton Rouge: Louisiana State University Press, 1977), 100-120; Stephen Crane, untitled poem in *War Is Kind*, originally published 1899, in *Crane: Prose and Poetry* (New York: The Library of America, 1984), 1336.

35. Nash, *The Call of the Wild*, 1-15, 19, 69, 79-84; Addington H. Bruce, "Baseball and the National Life," *The Outlook*, 104 (May 1913) : 104-07; Peter Levine, *A.G. Spaulding and the Rise of Baseball: The Promise of American Sport* (New York: Oxford University Press, 1985), 97-99, 109-112; Elliott J. Gorn, *The Manly Art: Bare-Knuckle Prize Fighting in America* (Ithaca, New York: Cornell University Press, 1986), 192-94, 201-02, 252-54; Harvey Green, *Fit For America: Health, Fitness, Sport, and American Society* (Baltimore, MD: Johns Hopkins University Press, 1986), 233-50, 321-23; Frank Norris, "The Frontier Gone At Last," *World's Work*, 3 (1902) : 1728-31; Henry F. May, *The End of American Innocence: The First Years of Our Own Time* (New York: Oxford University Press, 1959), 166-301. Beginning in 1914, later than the period in question but still indicative of this attitude that industrialized society was detrimental to man, Edgar Rice Burroughs published his long-running series of *Tarzan* novels. According to historian James D. Hart: "In the eyes of contemporary man, huddled in large cities and frustrated by a restrictive civilization, Tarzan was a joyous symbol of primitivism, an affirmation of life, endowing the reader with a Promethean sense of power." Hart, *The Popular Book: A History of America's Literary Taste* (New York: Oxford University Press, 1950), 219-20.

36. James D. Hart, *Popular Book*, 201-14; Nye, *Unembarrassed Muse*, 36, 146, 160, 365; Alice Payne Hackett and James Henry Burke, *80 Years of Best Sellers: 1895-1975* (New York: R.R. Bowker Company, 1977), 62-71. Another indication of this longing for a sense of community in the cities was the formation of organizations such as the Indiana Society of Chicago, the Ohio Society of Chicago (both of which claimed Landis as a member), and the first Rotary Club, established in Chicago in 1905.

37. Hackett and Burke, *80 Years of Best Sellers*, 66-67, 70; Hart, *Popular Book*, 207, 215; Nye, *Unembarrassed Muse*, 39-40; Owen Wister, *The Virginian: A Horseman of the Plains* (New York: A Signet Classic, New American Library, 1979--originally published New York: Macmillan & Co., 1902), 234 ("an honest man"), 274-76 ("call this

primitive"); Max Westbrook, afterword in same book, 318; Rex Beach, *The Spoilers* (Upper Saddle River, NJ: Literature House, 1969--originally published New York: Harper & Bros., 1906).

38. Beach, *Spoilers*, 30-31 ("red tape"), 90 ("I can't grasp the thing"), 120 ("fiction of law"), 131 ("We've tried the law"), 232 ("I played the game"), 307 ("We've thrown them off"). Both *The Spoilers* and *The Virginian* were made into motion pictures on four different occasions. In the best versions, Gary Cooper played "the Virginian," while John Wayne portrayed Roy Glenister.

39. For general discontent with the law in this period see, Ginger, *Altgeld's America*, 209-33. In 1906, a Chicago publication, *The Public*, echoed this sentiment in arguing that grand juries had outlived their usefulness. It contended that this device, originally designed in British law as a check on baseless prosecutions by overeager royal appointees, had, through their secret operations, become "a dreadful agency of injustice." Quoted in Ginger, 213.

40. David Crockett, *The Autobiography of Davy Crockett*, uncited quote in C.L. Sonnichsen, *Roy Bean: Law West of the Pecos* (Lincoln: University of Nebraska Press, 1943--reprint 1986), 69 ("My judgements"); Sonnichsen, *Roy Bean*, 89 ("there was common sense").

41. Landis liked to de-emphasize the amount of legal training he had received, once shading the truth considerably in telling a reporter for the *Cincinnati Post*, "I never went to college myself. Mighty few persons know that, but it's a fact. I started my law course at the Y.M.C.A. Law School in Cincinnati and finished it at a similar school in Chicago. Because I'm a lawyer, persons naturally think I'm a college graduate. But I'm not, and I'm proud of it. I don't go around shouting that I never went to college; I just keep my mouth shut about where I acquired my knowledge of the law." Perhaps Landis did not regard his law schools as being "colleges," but Cincinnati Law School was not a Y.M.C.A. school and his legal education was nearly as good as any available in the Midwest at the time. KML to Tom Swope, uncited quote in Spink, *Judge Landis*, 8.

42. G. Edward White, *Earl Warren: A Public Life* (New York: Oxford University Press, 1982), 358-60. White explains that Holmes once responded to fellow Supreme Court Justice Learned Hand's exhortation to "do justice" with the statement, "that is not my job." White, 358.

43. Terence Tobin, ed., *Letters of George Ade* (West Lafayette, Ind.: Purdue University Studies, 1973), 3.

CHAPTER 9
EPILOGUE

Landis spent the rest of his judicial career trying to recapture the glory and attention which were his during and after the Standard Oil case. He had grown accustomed to the spotlight; he enjoyed the feeling of importance that accompanied celebrity status. He remained in the public eye--indeed was among the most admired Americans, for years afterward, despite the uneventful nature of the bulk of his cases. He still appeared in the newspapers, but on page two or three rather than under the front-page headlines. He did his best with those cases that came his way, holding court with a flair and an original touch which were all his own, but for the rest of his judicial career none of his trials approached the magnitude of the Standard case or occupied the public imagination as that one had. The press and the public still delighted in his unique style, but a star performer such as Landis needed a stage large enough to showcase his talents, and no such stage was available. Thus, he developed into something of an anachronism on the bench, a throwback to an earlier era, persisting with his idiosyncratic brand of instinctive justice at a time when the law was becoming ever more complex, formal, and professional.

During the early 'teens, despite his reputation as the hero of the common man, he also began to lose his optimistic faith in the lower classes of the nation. Perhaps because

he saw only the worst examples of poor Americans in his courtroom, he grew more cynical and less forgiving toward those at the bottom of the social scale. In 1912, he found himself forced to question his confidence in humanity when his trust in strangers was abused twice within a few days. In the first incident, Landis cashed a personal check from a man who claimed to know friends of his in Indiana. "It seems I am a good thing," declared the irate jurist, "I now have this document [the check] as a souvenir. It was returned by the bank without being paid." Then, a short time later, he wrote a personal check for $179.75 to make up for money stolen by a man appointed custodian in a bankruptcy case at Landis's request. "I am tired of this court being used for a good thing and an easy mark," he exclaimed, and subsequently refused to lend money or otherwise guarantee the trustworthiness of those not familiar to him. In a period of rapidly changing values, Landis was finding it increasingly difficult to live up to the Golden Rule and other basic principles of small-town, nineteenth-century life.[1]

Betrayals of the sort that hurt his wallet were especially galling to Landis, as finances continued to cause, "an occasional spell of insomnia." From the late 1890s on, he obtained personal loans from friends, associates, and banks, usually for a few hundred dollars or less, but occasionally for larger amounts. He often had to gain extensions on these loans, being unable to pay them back on time. In addition, he sometimes overdrew his checking account and paid his bills late due to his financial situation. In his last years as a lawyer, his business picked up, leaving Landis better fixed "financially than at any time in five years," allowing him to "sleep better than I have slept in a great many years." He felt secure enough by that time to begin buying stock and looking into other

investments. His appointment to the bench in 1905, however, meant giving up those investments as well as taking a cut in salary.[2]

He handled his financial situation with humor and seemed to appreciate the irony of a famous celebrity constantly having to "touch" his friends for loans. In 1908, at the height of his fame, he was forced to admit to a friend that "I wish I could go to Washington with you in February, but I can't. It will take money to go to Washington in February, and in February I will be broke. I also wish I could go with you, in March, to Florida, but I can't. It will take money to go to Florida in March, and in March I will be broke." He closed with bittersweet humor writing "Please do not infer from the above that I am now broke." It did, however, pain him to watch the new, young lawyers who paraded through his courtroom get wealthy while he continued to rent a small apartment, unable to afford a house of his own.[3]

This struggle to stay afloat produced constant pressures that caused friction at home as well as sleepless nights. Landis and his wife exacerbated the problem by continuing to live beyond their means, attending shows, entertaining friends, and building and maintaining a summer cottage in Michigan. Also, Winifred tended to charge more at department stores than Landis believed they could afford, leading to heated confrontations at home when the bills arrived. Once he felt compelled to demand that Marshall Field and Company change a charge account from his wife's name to his, but she continued to pile up large bills just the same. After hearing a few of these monetary discussions, eight-year-old Reed entered a contest in which he described "The Perfect Wife," writing, "for

choosing a wife the qualities that should be in her are obeydience [sic], not much money to spend on things that are not needed, [and] to cook good oatmeal."[4]

In the 'teens, a raise in salary, to $7,500 per year, temporarily improved his financial situation, but by 1919 Landis was back in debt. During the war, caught up in the patriotic fervor, he purchased war bonds and donated money to several war-related causes, despite his inability to afford these expenditures. In addition, he began travelling widely, making speeches in support of the war effort or, after the war, as a spokesman for the newly organized American Legion. He refused to take a penny for these efforts, believing that such activities constituted part of his patriotic duty. These added expenses, however, drove him deeper into debt, to the point where he began to listen to the many job offers which routinely came his way. In early 1920, he wrote to his son indicating that he would soon take measures to end these difficulties, telling him, "I am going to become a money-earner pretty soon in some direction."[5]

In addition to his money problems, Landis, like many others of the middle class, became increasingly consumed by a gnawing dissatisfaction with the direction in which his country seemed to be heading as the United States of his boyhood slipped further and further into distant memory. In general, he related to and sympathized with workers, but he distrusted unions and believed that organized labor was beginning to demand too much. Moreover, he began to share the nativist repugnance toward the endless waves of immigrants flooding to Chicago and other cities, some of whom wound up in his courtroom, accused of criminal actions.[6]

His selection of close friends also reflected Landis's longing for the recent past, as these men usually shared the same Middle Western, small-town background, values, and view of the world. Having attained his coveted judicial position, Landis tended to seek the company of intelligent, clever, literary men, leaving behind many of his former political allies, with the notable exception of Frank Lowden. Landis stayed out of the political trenches but remained a close friend and political advisor to Lowden through several congressional, gubernatorial, and presidential campaigns. In 1905, Landis helped form the "Indiana Society of Chicago," one of many such organizations that emerged in cities in the early part of the century, as relative newcomers to urban areas attempted to replicate the sense of community they enjoyed in their small-town homes. Here, he developed close friendships with fellow Hoosiers John T. McCutcheon, possibly the best-known cartoonist-journalist of the day, and George Ade, a humorist and playwright whose books and plays gave him a national reputation as a raconteur.[7]

Ade's stories, called "modern fables" and begun as columns in the *Chicago Record-Herald*, satirized contemporary society by incorporating slang expressions into everyday situations. A master storyteller, he enjoyed relating an anecdote that occurred in Landis's courtroom when a defendant admitted to burning crucial evidence in a bankruptcy case. "Why did you burn those papers," Landis asked. "I was noivous," replied the culprit. "Are you nervous now?" inquired the judge. "I don't know," he answered. "I'll find out," said Landis, leaving his judicial seat, taking out his watch, and carefully counting the defendant's pulse. "No, you don't seem nervous," he announced, "but you have every reason to be, for in about ten minutes you're going to jail."[8]

During the early 'teens, Landis and poet Edgar Lee Masters took many long, Sunday walks in the years in which Masters was writing his classic, *Spoon River Anthology*, while also working as a prominent Chicago lawyer. In the late nineteenth century, after growing up in a small Illinois town, Masters, like Landis, Lowden, Ade, and McCutcheon, moved to Chicago, carrying with him many of the attitudes common to the Middle West. Masters's son later remembered seeing he and Landis, "swinging through Jackson Park . . . a distinguished looking pair often fierce of countenance, talking avidly, swinging good substantial sticks as they walked hundreds of miles together." In 1913, Landis encouraged Masters to seek a vacant judgeship in Chicago, insisting that he could "write opinions with one hand and poetry with the other." The two men discussed the law, politics, and poetry on their walks, and soon discovered that they agreed on many questions of the day, including the fact that both disliked the frequency with which the circuit court of appeals overturned lower courts on legal technicalities. This shared opinion found its way into one of the verse epitaphs of Masters's *Spoon River* volume, which reads, in part,

> I in life was the Circuit Judge, a maker of notches,
> Deciding cases on the points the lawyers scored,
> Not on the right of the matter.[9]

In 1917, the Great War brought a lot of nebulous discontent with the modern world into focus for many Americans, but in particular for Landis. His son, Reed, served as an ace pilot during the war, flying for Britain even before the United States entered the fray. As Landis agonized over the well-being of his son and fretted about events in Europe, his already-ardent nationalism boiled over and he became one of the most zealous

superpatriots in the country. He showed little patience for pacifism of any sort, often overstepping the limits of his position in his determination to give maximum sentences to labor leaders, radicals, or foreign sympathizers whom he perceived to be obstructing the war effort. During 1917 and 1918, he sent hundreds of men, including IWW leader William "Big Bill" Haywood and Milwaukee socialist Victor Berger, to federal prisons under the Espionage and Sedition Acts. The court of appeals overturned some of these war-time sentences and many other persons convicted in Landis's court were later pardoned. He also abandoned his long-held rule against speaking out on public issues by accepting any and all invitations to help raise financial or emotional support for the allies. He continued this practice after the war, moreover, becoming the leading national spokesman for the American Legion.[10]

After the armistice, a wave of conservatism brought Landis back into popular favor. In the aftermath of industrialization, Progressive Era reforms, and the Great War, the people of the United States struggled to come to grips with cultural pluralism and changing values. Old-stock natives, mostly white Protestants, expressed their fears and frustrations by striking out against immigrants, African-Americans, labor leaders, perceived radicals, and new social mores. Tensions and conflicts that had been building for decades generated a "Red Scare," immigration quotas, Prohibition, and the resurgence of the Ku Klux Klan. To some, Landis had become more reactionary during the war and he helped to incite much of the repressive hysteria that emerged in the years following that conflict. To many others, however, fearful of losing a way of life they had known in the

nineteenth century, Landis seemed to uphold the traditional values with which they had been raised in the small towns of America.[11]

His stock rose so high that, in late 1920, when organized baseball sought a savior to clean up its image in the wake of the Black Sox scandal, the owners turned to Landis as a logical and popular choice to assume the new position of commissioner. In the public perception, he bore every positive trait that Americans wanted to see in themselves: diligence, probity, courage, incorruptibility, and patriotism. He had also proven his devotion to baseball in 1915 by showing favoritism to major-league owners in an antitrust suit which wound up in his courtroom. Over the next five years, the grateful owners had never forgotten this treatment and they brought up his name whenever someone suggested creating a supreme position of authority to oversee all baseball activities. When the thrown World Series of 1919 finally forced their hand, baseball executives selected a popular, well-known figure who had always held a special spot in his heart for the national pastime.[12]

A lifelong baseball fan, Landis had attended games whenever possible, preferring the Cubs, but going to White Sox contests as well, obtaining his tickets directly from Charles A. Comiskey, owner of the Sox. While otherwise maintaining his strict rule about accepting gifts which might be seen as attempts to influence him, the one handout which he welcomed was an annual pass that granted free admission to ballgames. When reporters tried to ascertain his opinions on politics or a current court case, Landis often steered the conversation to baseball, talking knowledgeably and excitedly about the game and the current season. He possessed an almost wide-eyed enthusiasm for the game, often

overlooking its faults in order to call attention to its virtues. "There is no gambling to amount to anything connected with baseball," he told reporters in 1909, ignoring a great deal of contrary evidence, "and I am glad of it, for it is certainly a wholesome sport. It is a compliment to the nation to love such a clean and thoroughly wholesome sport."[13]

Landis took to his new position with the same energy and enthusiasm which had characterized his entire career, trying to remove all taint of dishonesty from the game overnight. Although the White Sox players accused of cheating in the 1919 World Series were acquitted in civil court, Landis banned all eight from ever again playing the game. With a typically instinctive decision, Landis denied the men their civil rights and found them guilty "regardless of the verdict of juries." In the repressive atmosphere of the post-war years, this action appealed to a consensus of Americans who wanted to instill traditional morality into society, especially in an entertainment field as visible as baseball.[14]

Landis did, however, begin to lose favor with the press and some of the public when he refused to give up his seat on the bench after accepting the baseball job. He stubbornly held his ground even when threatened with impeachment by congress, some members of which believed he could not be an effective judge while also holding down a full-time position as commissioner of baseball. He finally surrendered his judicial robes in 1922, but only after the pressure for his resignation had subsided and he was able to retire on his own terms.[15]

By that point, Landis was entirely ready to step down from the bench. His belief that a position as federal judge was the perfect occupation for him had faded considerably

during the previous seventeen years. He had hoped for a job where he was answerable to no one, but found himself repeatedly subject to reversals and criticism from courts of appeal. That fact, coupled with his loss of faith in the United States and its common people, made him receptive to overtures from the baseball owners. In addition, the fifty-thousand-dollar salary they offered, nearly seven times what he earned as district court judge, represented a permanent end to his nagging financial worries. Finally, in their panic over the Black Sox embarrassment, the owners offered him a virtual blank check as far as power and authority were concerned. With his authoritarian methods and baseball's unique status of being immune from antitrust laws, Landis was able to make the commissioner's office into the position of which he had always dreamed.[16]

For nearly a quarter century, until his death in November 1944, Landis operated as supreme dictator of the sport he loved so dearly. As always, he relied on his instincts, folk logic, and his sense of first principles to guide his decisions. This new position, however, gave him absolute power within the realm of baseball and he became even more autocratic than he had been as a judge. He subjected the game, the players, and the owners to his own brand of nineteenth-century morality, and his decisions were final, with no court of appeal waiting to overturn him. For the last third of his life, his boyhood ambition to "become the head of something," to be "responsible to nothing except his own conscience," had become a reality.[17]

Notes

1. *Chicago Record-Herald*, 19 March 1912 (quotes); *New York Sun*, 19 March 1912.

2. KML to George A. Funkhouser, 16 February 1898, KML-CHS, 76-538 ("occasional spell of insomnia"); Philip D. Armour to KML, 17 March 1898, KML-CHS, 31-330; KML to Frank Q. Landis, 23 June 1898, kML-CHS, 76-538; KML to W.C. Thomas, Logansport State Bank, 30 December 1898, KML-CHS, 77-542; KML to Edwin F. Uhl, 23 December 1899, KML-CHS, 77-542; KML to ? , letter fragment, February 1901, KML-CHS, 77-542 ("any time in five years"); KML to John H. Landis, 11 December 1901, KML-CHS, 77-535; KML to Marshall Field and Co., 6 February 1902, KML-CHS, 77-535; KML to National Bank of the Republic, Chicago, 3 June 1902, KML-CHS, 78-543; KML to A.M. Cross, 5 July 1905, KML to N.R. Losch, 15 February 1906, KML to Frank H. Jones, 30 April 1906, KML to Joseph Talbert, Commercial National Bank, 27 September 1906, all KML-CHS, 80-544; KML to Northwestern Life Insurance Co., 18 November 1907, KML to Commercial National Bank, 14 December 1907, KML to Ellen B. Simons, 15 January 1908, KML to Marshall Field & Co., 5 February 1908, KML to Arthur H. Bogue, 17 July 1908, all KML-CHS, 80-546; KML to Dr. J.W. Wassail, 5 April 1909, KML to Central Trust Co., 7 March 1910, both KML-CHS, 80-541; Checking account balances, November 1911, January 1912, KML-CHS, 45-477. A debt to fellow judge, Solomon H. Bethea, on a loan taken out for $750 on 23 March 1908, had to be paid to his estate in 1911, after Bethea's death. Handwritten loan agreement, KML-CHS, 45-477.

3. KML to A.B. Anderson, 31 December 1908, KML-CHS, 80-541 (quote); KML to Theodore L. Neff, 8 May 1907, KML-CHS.80-546.

4. M.R. McMichael to KML, 3 October 1905, 18 June 1913, KML-CHS, no box, no file, 81-548; KML to Charles Davis, 28 June 1906, 7 July 1906, 4 April 1910, 17 June 1913, KML-CHS, 80-541, 544, 81-548; Deed, Cheyboygan County, Michigan, 9 April 1910, Building receipts, 1910, 1921, KML-CHS; many letters, summer 1910, letterbook, KML-CHS, 80-541; KML to Marshall Field and Co., 6 February 1902, KML-CHS, 77-535, 5 February 1908, KML-CHS, 80-546; Reed Gresham Landis to Prize Editor, Contest Committee, undated, probably about 1905, KML-CHS, 51-533.

5. KML to P. Alfred Jenks, 11 December 1919, KML-CHS, 82-406; KML to Reed Gresham Landis, 26 January 1920, KML-CHS. 82-553 ("money-earner"); KML to H.P. Dunlop, 10 November 1920, KML-CHS, 83-547; KML to Gov. W.S. Harding (Iowa), 14 April 1917, KML to Charles H. Kingman, 7 December 1917, both KML-CHS, 81-545; KML to R.V. Black, 1 February 1918, KML to Katherine H. Obye, 19 February 1918, both KML-CHS, 81-405; many letters, 1919-1920, KML-CHS, 82-406, 82-553; KML to W.R. Johnson, 28 February 1921, KML to J.A. Hagen, 3 May 1921, KML-CHS, 83-521.

6. John P. MacKenzie, *The Appearance of Justice* (New York: Charles Scribner's Sons, 1974), 181-82.

7. *Chicago Tribune*, 19 December 1905; Program, Indiana Society of Chicago (ISC), 1951, James A. Stuart Papers, Indiana Historical Society, Indianapolis, Indiana; Fred C. Kelly, *George Ade: Warmhearted Satirist* (New York: Bobbs-Merrill Co., 1947), 215, 221. McCutcheon's brother, George Barr McCutcheon, also a friend of Landis, wrote many best-selling books, including *Brewster's Millions* and the *Graustark* series of romantic novels. While introducing McCutcheon to an ISC banquet in 1906, Ade said, "I once heard a man from Lafayette say that the principle products from Indiana were corn, oats, Landises, and McCutcheons." Program, ISC, 1906, George Ade Papers, Stewart Center, Purdue University, West Lafayette, Indiana. Landis served one year as president of the organization, in 1918, and umpired the annual baseball game held on Ade's Hazelwood, Indiana farm. Program, ISC, 1918, Ade Papers; McCutcheon cartoon of baseball game, Kelly, between 160 and 161; *Chicago Daily News*, 26 June 1909.

8. Kelly, *George Ade*, 256-57.

9. Edgar Lee Masters, *Across Spoon River: An Autobiography* (New York: Farrar & Rinehart, Inc., 1936), 326-27 ("poetry with the other"); Masters, *Spoon River Anthology* (New York: Macmillan Publishing Co., 1915; paperback edition, 1962), 96; KML to F.A. Geiger, 3 November 1913, KML-CHS, 81-548; Hardin Wallace Masters, *Edgar Lee Masters* (Cranbury, N.J.: Associated University Presses Inc., 1978), 43 ("distinguished looking pair").

10. Pringle, "Portrait of a Bench Warmer," 620; "Judge Landis, The New Czar of Baseballdom," *Literary Digest*, 67 (4 December 1920): 47.

11. Murray, Robert K., *Red Scare: A Study in National Hysteria, 1919-1920* (New York: McGraw-Hill, 1955), 3-17; Parrish, Michael E., *Anxious Decades: America in Prosperity and Depression, 1920-1941* (New York: W.W.Norton & Co., 1992), 3-11, 94-98, 114-34; Brougham, America's Erratic Judge," 9-11.

12. David Quentin Voigt, *American Baseball*, vol. 2, *From the Commissioners to Continental Expansion* (University Park: Penn State University Press, 1983), 142-43.

13. Spink, *Judge Landis*, 15, 18-19; KML to Charles A. Comiskey, 14 April 1913, KML-CHS, 81-548; KML to Comiskey, 5 April 1916, 81-549; Collection of passes, KML-CHS; *Cincinnati Times-Star*, 18 September 1907; *Cincinnati Commercial Tribune*, *Cincinnati Post*, *Dayton Daily News*, 19 September 1907; *Milwaukee Sentinel*, *Milwaukee Free Press*, 22 May 1909 ("wholesome sport"). Actually, gambling represented a major problem in baseball long before the Black Sox scandal broke in 1920. See, *Chicago Tribune*, 15 April 1905; Edward Grant Barrow, with James M. Kahn, *My Fifty Years in Baseball* (New York: Coward-McCann, 1951), 112; Fred Lieb, *Baseball As I Have Known It*, 97, 99-100, 103; Voigt, *American Baseball*, 2:131; Benjamin G. Rader, *Baseball: A History of America's Game* (Urbana and Chicago: University of Illinois Press, 1992), 106; Eliot

Asinof, *Eight Men Out: The Black Sox and the 1919 World Series* (New York: Henry Holt & Co., 1963), 10-15.

14. Press Release, from Commissioner of Baseball KML, 3 August 1921, KML-CHS, 84-551 ("verdict of juries"); Rader, *Baseball*, 105-06; Voigt, *American Baseball*, 2: 129-30.

15. "Judge Landis Under Fire," *Literary Digest*, 68 (12 March 1921): 40-44; Pringle, "Portrait of a Bench Warmer," 622.

16. Rader, *Baseball*, 105-11; Voigt, *American Baseball*, 2: 137-50. Baseball's immunity from antitrust prosecution was firmly established in 1922, with Supreme Court Justice Oliver Wendell Holmes, Jr., speaking for the majority, ruling that baseball was primarily a sport, and therefore not subject to laws governing monopolies. *Federal Base Ball Club of Baltimore, Inc. v. National League of Professional Base Ball Clubs and American League of Professional Base Ball Clubs*, 259 U.S. 200, 42 Supreme Court 465.

17. KML to Kendall, *Chicago Tribune*, 20 November 1916 ("responsible to nothing").

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BIOGRAPHICAL SKETCH

Born in 1954, Jack Henderson grew up in Chicago before attending Knox College, in Galesburg, Illinois, for a year and graduating from Western Illinois University in Macomb, in 1976. He spent the next ten years as a folk-singer, while also working numerous odd jobs, in Chicago; Austin, Texas; Boulder, Colorado; and Los Angeles. Returning to graduate school in 1986, he earned his master's degree from Southern Illinois University in Carbondale two years later. In 1995, he received his Ph.D. in American history from the University of Florida in Gainesville. Married to Kathleen Henderson since 1991, he has two step-children, Ben and Kristin Morgan.

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Doctor of Philosophy.

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This dissertation was submitted to the Graduate Faculty of the Department of History in the College of Arts and Sciences and to the Graduate School and was accepted as partial fulfillment of the requirements for the degree of Doctor of Philosophy.

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